

Title 35 Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 01 Administrative

Chapter 01 Direct Payment of Sales or Use Tax to the State in Lieu of Payment to Seller

Statutory Authority

100 Section 27-65-93, Mississippi Code of 1972, provides that the commissioner may provide for the issuance of a direct pay permit to manufacturers, utilities, construction contractors, companies receiving bond financing, and other taxpayers where in those instances the commissioner determines that permit will facilitate and expedite the collection of tax at the proper rates.

101 (Reserved)

Usage

200 The issuance of a direct pay permit transfers the liability of the tax directly to the permit holder in lieu of payment to the vendor and relieves vendors taxed under code Sections 27-65-17 (selling tangible personal property wholesale and retail), 27-65-19 (utilities), 27-65-23 (miscellaneous businesses) and 27-67-5 (use tax levy) of the liability for the tax. Vendors taxed under all other sections of the sales tax law, including 27-65-21 (contractor's tax) are not relieved of this liability. The direct pay permit shall not be used to purchase telecommunications services exempt from tax. The tax due from these services must be remitted by the telecommunications provider due to the separate diversions for interstate and intrastate services.

201 If the permit holder continues to remit sales tax to the vendor rather than directly to state, the permit holder will be required to contact the vendor for a credit or refund of any overpayment resulting from this practice. This will be required even if the overpayment is discovered during a sales or use tax audit where there will be an assessment of additional tax made or in cases where the Statute of Limitation has run on a portion of the overpayment

202 Manufacturers. The Commissioner requires all manufacturers and custom processors, with certain exceptions, to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax due on purchases of tangible personal property and services directly to the state in lieu of payment of the tax to the vendor.

203 Utilities and Contractors. The Commissioner may also authorize or require the issuance of a direct pay permit to utilities companies and construction contractors if, the direct pay permit will expedite the proper tax classification and payment of applicable sales and use taxes due on purchases of personal property and services. A contractor may obtain a direct pay permit for the purposes of reselling free-standing tangible personal property to

an exempt entity in the performance of its construction project or for jobs where the contractor is purchasing manufacturing machinery or other equipment for sale to an entity financing its project with bond proceeds or for an entity holding a valid statutory exemption under Section 27-65-101 (1)(q), (1)(r) and (2).

- 204 Floating Structures. The Commissioner requires the owners of casinos and other floating structures taxable under Section 27-65-18 to obtain a direct pay permit. The direct pay permit holder is responsible for remitting the applicable sales and use tax on purchases of tangible personal property and services, as well as sales of tangible personal property that become a component of the structure or construction activities taxed under Section 27-65-18. Section 27-65-18 requires that the owner SHALL furnish the permit to a seller or person performing construction activities on the floating structure. However, in those instances where a contract is issued covering both water based and land based construction activities taxed under Sections 27-65-18 and 27-65-21, respectively, the contractor is permitted to qualify the total contract and remit the 3½% contractor's tax due provided that the land based construction activity is in excess of \$10,000.
- 205 Bond Proceeds Project. The Commissioner requires any entity wishing to take advantage of the sales tax exemptions provided for under Sections 57-10-1 et seq., 57-61-1 et. seq. and 57-71-1 et seq. to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. This direct pay permit is applicable only for purchases made for the specified project. The direct pay permit holder must remit the applicable sales and use tax on any purchases that are not made with or reimbursed with bond proceeds. The exemption does not apply to any contractor's tax levied under Section 27-65-21, Mississippi Code of 1972. The direct pay permit for this exemption will be rescinded when the bond money is depleted and tax will once again be due to the vendor if the applicant is NOT a qualified industry.
- 206 Telecommunications Enterprises. The Commissioner may authorize or require any entity providing telecommunications services taxed under Section 27-65-19, Mississippi Code of 1972 to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax on all purchases of tangible personal property and services directly to the state in lieu of payment to the vendor.
- 207 Motion Picture Production Companies. The Commissioner requires any entity wishing to take advantage of the exemption from sales tax provided for under Section 27-65-101(bb) or the reduced manufacturing rate of tax provided for under Section 27-65-17 to obtain a direct pay permit for use in purchasing equipment used in the production of a motion pictures , which shall not include the production of television coverage of new and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Section 97-29-103. The direct pay permit must be provided to vendors in order to make purchases tax exempt. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made which are not exempt.
- 208 Growth and Prosperity (GAP) Area Exemption. The Commissioner requires any entity - wishing to take advantage of the exemption from sales tax provided for under Section 57-

80-1 et seq. to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The exemption is for a period of 10 years and covers only purchases of component materials and purchases or leases of machinery and equipment used in the initial construction or expansion of the business in the GAP area. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Section 27-65-21, Mississippi Code of 1972. The direct pay permit for this exemption will be rescinded when the bond money is depleted and tax will once again be due to the vendor if the applicant is NOT a qualified industry.

209 (Reserved)

Filing Requirements

300 Use tax returns are required to be filed based upon the filing status assigned by the Tax Commission. Any tax due on taxable purchases by the permit holder must be reported on its return. Any other sales tax liability of the permittee shall be reported under a separate account.

301 A direct pay permit is subject to revocation when the Commissioner feels that the best interest of the state will be served in so doing.

302 (Reserved)

Chapter 02 – Damages for Delinquent Payment of Tax

100 The Sales Tax Law requires that monthly sales tax returns shall be filed by the twentieth of the month following the period covered, and quarterly sales tax returns shall be filed by the twentieth of the month following the end of the quarter. Returns filed on a four (4) week accounting period (13 returns per year) shall be filed within 20 days following the end of the period covered. Persistent, willful or recurring failure to file such returns on or before the due date subjects the taxpayer to damages and interest on the amount due.

101 Any taxpayer who violates Section 27-65-33 the second time in any calendar year will be considered a persistent, willful or recurring delinquent for purposes of this regulation. Any taxpayer, to whom a twenty-day delinquent notice has been directed, as provided by Section 27-65-35, will be subject to damages and interest for delinquent filing when the tax is paid. For successive violations, the taxpayer will be assessed damages on an increasing scale of 10%, 15%, 25% and 50%.

102 The only exceptions to this procedure will be in those cases where the taxpayer makes a bond, or when the taxpayer requests, and is granted an extension of time in which to file, as provided by Section 27-65-33. When the taxpayer makes bond, returns may be filed quarterly; and if the extension is granted, returns may be filed before expiration of the extension without penalty.

103 The taxpayer discount will not be allowed on returns which are filed after the twentieth of the month next succeeding the period covered. The granting of extensions of time in which to file returns does not extend the period for claiming the discount.

104 (Reserved)

Chapter 03 – Sales Tax Bonds

100 The Sales Tax Law provides that cash or surety bonds be filed in various instances where the revenue of the State of Mississippi must be protected and the payment of taxes assured. The cash bond or approved surety bond shall be in an amount sufficient to cover the estimated tax liability for a six month period. Provided, however, that the bond shall in no case be less than \$100.00. A non-inclusive list of circumstances that may require a bond are provided below.

1. A taxpayer with no permanent business location within this State.

- a. Any taxpayer operating a business from their home or from a temporary location (less than 90 day lease), shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business, unless the taxpayer can show cause why a bond should not be required. The amount of the bond shall be set by the Commissioner and will be determined by the type of business in which the taxpayer is engaged.
- b. A temporary location includes, but is not limited to, an event held for a limited period of time that may include the issuance of a temporary beer license. Any taxpayer who can demonstrate that they operate a permanent business location in this State may be exempted from posting a bond for a temporary event.

2. A taxpayer making retail sales of mobile homes.

- a. On or after the effective date of this regulation (July 1, 2001), any taxpayer operating a new or used mobile home dealership shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business. The amount of the bond shall be \$25,000 for a new mobile home dealer and \$10,000 for a mobile home dealer, unless the taxpayer or Commissioner can show cause for another amount to be accepted.
- b. Any manufactured home dealer who was issued a permit to engage in business prior to July 1, 2001 and who files delinquent tax returns for more than one period in a calendar year or who presents a check for payment of tax that is returned by the bank for insufficient funds, shall be required to post a bond equal to six months' tax liability. The six months' liability shall be determined by accumulating the past 12 months' liability (determined by returns file or audit results) and dividing by 2.

3. A taxpayer whose privilege of doing business has been forfeited by injunction or revocation of the permit to engage in business. The surety bond shall be in an amount sufficient to cover the estimated tax liability for a six months' period and conditioned that all taxes accruing in the future will be paid when due.

4. A taxpayer petitioning for a hearing prior to sale of property which has been seized under a jeopardy warrant. The taxpayer must execute a supersedeas surety bond with a surety company doing business in this State for double the amount of the

assessment. The bond must be conditioned that any taxes, damages, interest and costs adjudged to be due after the hearing will be paid promptly upon order of the State Tax Commission.

5. **Certain taxpayers who file quarterly sales tax returns.** The surety bond must be with a surety company authorized to do business in Mississippi in an amount double the aggregate tax paid by the taxpayer for any previous three months' period within the last calendar year. The bond must be conditioned for the prompt payment of such taxes as may be due for each quarterly return.
6. **Contractors performing contracts in excess of \$75,000.00.**
 - a. A surety bond must be filed on taxable contracts performed in this State unless the tax is prepaid. Such bonds shall be either (a) "job bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of all jobs or activities taxable under Section 27-65-21 begun during the period specified therein, regardless of the date of completion. The bond must be sufficient to cover the liability for sales, use, income, withholding and motor fuel taxes. The bond must be approved by the Commissioner. When a bond is filed, the sales tax due under Section 27-65-21 must be paid on a monthly basis as compensation is received.
 - b. In the case of a prepayment of sales tax where a use, income, withholding or motor fuel tax bond is required, the contractor will be so notified after an application for a Material Certificate has been received. Since the payment of the taxes due or the execution and filing of a surety bond for contracts exceeding \$75,000.00 is a condition precedent to commencing work, the taxes accrue before work is begun. The surety on the tax bond is secondarily liable for all taxes due on the contract covered by the bond. When a contractor defaults in the execution of his contract and the bonding company acting as surety for the performance of the contract assumes completion of the contract, said bonding company becomes primarily liable for the payment of the sales, use, income, withholding and motor fuel taxes due upon the unfinished portion of the contract which it completes.

Chapter 04 – Brackets for Collection of Tax

100 The following schedule provides for the collection of the tax at the rate of 7% from the purchaser on sales taxable under Sections 27-65- 17, 27-65-19, 27-65-22, 27-65-23, and 27-65-25 of the Sales Tax Law and under Section 27-67-5 of the Use Tax Law;

101

Amount	of	Sales	Tax	Amount	of	Sales	Tax	Amount	of	Sales	Tax
\$0.00	to	\$0.07	\$0.00	\$3.79	to	\$3.92	\$0.27	\$7.65	to	\$7.78	\$0.54
0.08	to	0.21	0.01	3.93	to	4.07	0.28	7.79	to	7.92	0.55
0.22	to	0.35	0.02	4.08	to	4.21	0.29	7.93	to	8.07	0.56
0.36	to	0.49	0.03	4.22	to	4.35	0.30	8.08	to	8.21	0.57
0.50	to	0.64	0.04	4.36	to	4.49	0.31	8.22	to	8.35	0.58

0.65	to	0.78	0.05	4.50	to	4.64	0.32	8.36	to	8.49	0.59
0.79	to	0.92	0.06	4.65	to	4.78	0.33	8.50	to	8.64	0.60
0.93	to	1.07	0.07	4.79	to	4.92	0.34	8.65	to	8.78	0.61
1.08	to	1.21	0.08	4.93	to	5.07	0.35	8.79	to	8.92	0.62
1.22	to	1.35	0.09	5.08	to	5.21	0.36	8.93	to	9.07	0.63
1.36	to	1.49	0.10	5.22	to	5.35	0.37	9.08	to	9.21	0.64
1.50	to	1.64	0.11	5.36	to	5.49	0.38	9.22	to	9.35	0.65
1.65	to	1.78	0.12	5.50	to	5.64	0.39	9.36	to	9.49	0.66
1.79	to	1.92	0.13	5.65	to	5.78	0.40	9.50	to	9.64	0.67
1.93	to	2.07	0.14	5.79	to	5.92	0.41	9.65	to	9.78	0.68
2.08	to	2.21	0.15	5.93	to	6.07	0.42	9.79	to	9.92	0.69
2.22	to	2.35	0.16	6.08	to	6.21	0.43	9.93	to	10.07	0.70
2.36	to	2.49	0.17	6.22	to	6.35	0.44	10.08	to	10.21	0.71
2.20	to	2.64	0.18	6.36	to	6.49	0.45	10.22	to	10.35	0.72
2.65	to	2.78	0.19	6.50	to	6.64	0.46	10.36	to	10.49	0.73
2.79	to	2.92	0.20	6.65	to	6.78	0.47	10.50	to	10.64	0.74
2.93	to	3.07	0.21	6.79	to	6.92	0.48	10.65	to	10.78	0.75
3.08	to	3.21	0.22	6.93	to	7.07	0.49	10.79	to	10.92	0.76
3.22	to	3.35	0.23	7.08	to	7.21	0.50	10.93	to	11.07	0.77
3.36	to	3.49	0.24	7.22	to	7.35	0.51	11.08	to	11.21	0.78
3.50	to	3.64	0.25	7.36	to	7.49	0.52	11.22	to	11.35	0.79
3.65	to	3.78	0.26	7.50	to	7.64	0.53	11.36	to	11.49	0.80
\$11.50	to	\$11.64	\$0.81	\$14.08	to	\$14.21	\$0.99	\$16.65	to	\$16.78	\$1.17
11.65	to	11.78	0.82	14.22	to	14.35	1.00	16.79	to	16.92	1.18
11.79	to	11.92	0.83	14.36	to	14.49	1.01	16.93	to	17.07	1.19
11.93	to	12.07	0.84	14.50	to	14.64	1.02	17.08	to	17.21	1.20
12.08	to	12.21	0.85	14.65	to	14.78	1.03	17.22	to	17.35	1.21
12.22	to	12.36	0.86	14.79	to	14.92	1.04	17.36	to	17.49	1.22
12.36	to	12.49	0.87	14.93	to	15.07	1.05	17.50	to	17.64	1.23
12.50	to	12.64	0.88	15.08	to	15.21	1.06	17.65	to	17.78	1.24
12.65	to	12.79	0.89	15.22	to	15.35	1.07	17.79	to	17.92	1.25
12.80	to	12.92	0.90	15.36	to	15.49	1.08	17.93	to	18.07	1.26
12.93	to	13.07	0.91	15.50	to	15.64	1.09	18.08	to	18.21	1.27
13.08	to	13.21	0.92	15.65	to	15.78	1.10	18.22	to	18.35	1.28
13.22	to	13.35	0.93	15.79	to	15.92	1.11	18.36	to	18.49	1.29
13.36	to	13.49	0.94	15.93	to	16.07	1.12	18.50	to	18.64	1.30
13.50	to	13.64	0.95	16.08	to	16.21	1.13	18.65	to	18.78	1.31
13.65	to	13.78	0.96	16.22	to	16.35	1.14	18.79	to	18.92	1.32
13.79	to	13.92	0.97	16.36	to	16.49	1.15	18.93	to	19.07	1.33
13.93	to	14.07	0.98	16.50	to	16.64	1.16	19.08	to	19.21	1.34

- 102 The 7% schedule may be extended to include larger sales amounts by grouping similar increased on the same basis as those shown in the bracket.
- 103 The tax is due on the gross proceeds of sales or gross income regardless of the fact that small unit sales may not amount to enough to collect a tax or may be within a bracket of the schedule which does not provide for the collection of the computed liability.
- 104 Sales through vending machines are considered to have the tax included in the unit price of the merchandise. The tax thus collected may be excluded from total vending machine receipts to determine the base on which the tax liability is computed.
- 105 (Reserved)

Chapter 05 – Taxpayer Discount

- 100 Taxpayers must file a separate sales tax return for each business location. Taxpayers operating more than one place of business may file separate or consolidated use tax returns.
- 101 For prompt filing and payment of all taxed due, certain taxpayers are allowed a 2% discount of the tax liability subject to the following limitations:
1. It shall not exceed \$50.00 per calendar reporting period (monthly, quarterly, semi-annually or annually), per business location on each sales tax return and on each use tax return.
 2. Total shall not exceed \$600.00 per calendar years, consequently, taxpayers filing on a four (4) week accounting period (13 returns per year) are limited to a maximum discount of \$46.16 per return (\$600.00 divided by 13).
 3. The discount is not available to:
 - a. Contractors
 - b. Cotton ginners
 - c. County or State agencies serving as collectors of sales or use tax
 - d. Public utilities
 - e. Wholesalers collecting the wholesale rates of tax which are equal to or greater than the tax rate applicable to retail sales of the same property or service.
 - f. Any person failing to file by the 20th day following the reporting period. The granting of extensions of time does not extend the period for claiming the discount. An authorized extension avoids imposition of penalty and interest on returns filed by the extended due date, but the discount is confined by Statute to returns filed within twenty (20) days after the reporting period only.
 - g. Any person found deficient in the payment of his liability for any period. When a deficiency assessment amounts only to a very small percentage of the total tax paid, approval may be given to allow the discount.
- 102 (Reserved)

Chapter 06 – Definitions

- 100 Credit for Tax paid to another state - An individual, who imports property into Mississippi, is entitled to a tax credit for taxes paid to another state at either the state or local level or both. The tax credit is the smaller of either the amount of Mississippi use tax due or the total amount of tax properly paid in another state. For sales tax to be properly paid to another state, the situs of the sale must be that state, and for use tax to be properly paid, first use must occur in that state. Also, any local sales or use tax claimed as a credit must have been levied under the authority of the state. The individual must provide an invoice or other evidence that clearly and correctly shows the amount of tax as a separate item to support the credit for taxes paid another state.
- 101 Boys and Girls Clubs - To be eligible for the sales tax exemption that is available to Boys and Girls Clubs, the organization must meet the following requirements:
1. Must be registered with Internal Revenue Service as a 501(c)(3) corporation
 2. Its sole purpose is to provide and manage youth activities
 3. Must be active. The term active means that the organization's principle activity must be continued for a total of at least 10 months out of a year. The monthly meeting of the organization's board would not indicate an active status. (Example A youth baseball club would be required to provide organized activities for 10 months out of the year)
- 101.01 This exemption will apply only to those purchases that remain the property of the organization. The exemption would not apply to the purchase of uniforms that are provided to the players through either the payment of a registration fee or a separate charge.
- 102 (Reserved)

Sub Part 02 Gross Income

Chapter 01 Employee and Accommodation Sales

- 100 When a person engaged in the business of selling any property or services taxable under the Sales Tax Law sells to his employees or others at discount prices for reason of accommodation, such sales are taxable retail sales.
- 101 A sale of property which is delivered to and for which collection is made from a person that will consume or use the property rather than resell it, is a retail sales taxable to the person making delivery even though the billing is to another dealer.
- 102 (Reserved)

Chapter 02 Prizes, Premiums, Gifts, Coupons and Trading Stamps

- 100 **Prizes.** Persons purchasing property to be given away, awarded as prizes in games and contests of chance or skill or distributed for advertising purposes are regarded as consumers thereof and the regular retail sales or use tax applies.
- 101 **Gifts.** The purchase price of goods ordinarily bought for resale but subsequently given away or used must be included in the gross sales of the purchaser and the regular retail tax paid thereon. The value of a gift received from an out-of-state donor is subject to use tax.
- 102 **Premiums.** When a person sells tangible personal property and simultaneously includes other tangible personal property as a premium or gift to the purchaser as a part of the same transaction, the selling price is deemed to include all items to which title passes as the time.
- 103 **Coupons.** Merchandise purchased in whole or in part by coupons redeemable by the manufacturer of the merchandise for an amount indicated on the coupon is taxable on the full selling price. Merchandise purchased in whole or in part by coupons ordinarily found in newspaper advertisements redeemable only by a particular store or chain of stores is taxable on the selling price less any discount allowed for the coupon.
- 104 **Rebates.** A rebate given by the seller is considered to be a discount deductible from the selling price when shown on the invoice and is exempt. Rebates made directly by the manufacturer to the purchaser or to the seller are taxable as a segment of the selling price. The gross receipts of the seller are not reduced by the allowance of this type of rebate.
- 105 **Buy-downs**
1. Buy-down programs are typically offered as either a sales based buy-down or a purchase based buy-down and the tax treatment is dependent upon the type of buy-down or incentive payment offered.
 2. Sales based buy-down or incentive payments are received by a retailer from a manufacturer or distributor and are based upon the number of sales of a particular product. These incentives are passed on to the consumer in the form of a reduced sales price and are a taxable component of the sale. These payments are considered to be a portion of the gross proceeds of sales as defined by Section 27-65-3 (h).
 3. Purchased based buy-down or incentive payments are received by a retailer from a manufacturer or distributor and are based upon the purchase of a particular product or the number of particular product the retailer holds in its inventory. These payments are considered a reduction in purchase price of the retailer and are not taxable.
- 106 **Trading Stamps**
1. The transfer of property through the exchange of redemption of coupons or trading stamps or other things of value is a transaction in which title of property passes and constitutes a sale taxable under the Sales Tax Law. The regular retail rate of tax applies to the stated value of the stamps or coupons or the retail value of the merchandise involved, whichever is greater, regardless of whether redeemed by the store originally issuing them or by a merchandise redemption center.

2. Trading stamp firms maintaining a redemption store in Mississippi are not liable for sales tax on their cost of merchandise for resale. Trading stamp firms distributing or selling trading stamp programs in this State are liable for the regular retail rate of sales or use tax on the cost of stamps, stamp books, catalogues, signs, stamp trays, and other supplies for use in this State.
3. Trading stamps redeemed at points outside this State are subject to use tax, and if the tax is not collected and paid by the out-of-state redeemer, it accrues to the person in this State receiving the property.

107 (Reserved)

Chapter 03 Mileage, Delivery Charges and Rebilled Expenses

- 100 Income received from travel, mileage or delivery charges must be included in the taxable gross income when incurred in connection with the sale of tangible personal property or in the performance of taxable services by vendors doing business within this State which includes any charges made by the seller for delivery of property sold to the purchaser even though such amounts are separately stated on the seller's invoice apart from the sales price of the property.
- 101 Purchases from or sales by out-of-state vendors of tangible personal property are subject to use tax on the full purchase price, including freight charges to the point of use within this State.
- 102 Any business which performs a delivery service or which incurs travel expenses contemplates the recovery of this expense through the charge for its goods or services. Separately invoicing the customer with charges representing a recovery of these expenses is in reality an allocation of the selling price to this cost of operation and cannot be excluded from the measure of tax imposed upon the gross income.
- 103 Hotel expenses, meals, supplies, freight and other expenses which are itemized by the seller and rebilled to the customer must be included in taxable income even though separately billed and irrespective of the fact that such goods and services may have borne a retail tax.
- 104 (Reserved)

Chapter 04 Finance or Carrying Charges

- 100 Sales tax is levied on the "gross proceeds of sales" or "gross income" as the case may be. Sales tax is to be applied to the full sales price which includes any addition to the selling price on account of deferred payments by the purchaser.
- 101 Finance or carrying charge income received by the retailer is subject to sales taxes regardless of when billed.

- 102 When a third party acts as agent for the retailer and collects the finance charges on behalf of said retailer, sales taxes are due on the finance charges collected.
- 103 When credit sales are made and the credit is extended by a third party, no sales taxes are due on finance charges collected by the third party creditor.
- 104 When credit is extended by the retailer and the credit instrument or account receivable is later sold to a third party; no sales taxes are due on finance charges collected by the third party.
- 105 Bad check charges if equal to or less than thirty (30) dollars are to be excluded from the gross proceeds of sales.
- 106 (Reserved)

Sub Part 03 Taxability

Chapter 01 – Wholesale Sales

100 Definitions:

100.01 “Wholesale sales” shall apply to:

1. a. A sale of tangible personal property taxable under Section 27-65-17 or 27-65-25 for resale in the regular line of business, when made in good faith to a retailer regularly selling or renting that property and when said dealer is licensed under Section 27-65-27 if located in this State.
- b. A sale of a service taxable under Section 27-65-23 for resale in the regular line of business, when made to a regular dealer in that service and when said dealer is licensed under Section 27-65-27 if located in this State, or a charge for custom processing rendered upon merchandise for resale or rental by a dealer licensed under Section 27-65-27.
- c. "Wholesale sales" shall not include a transaction whereby property is delivered to and collection for same is made from a person that will consume the property rather than resell it even though the billing is to a retailer.
- d. Provided, however, when a taxpayer sells merchandise and has paid a rate equal to the retail rate of tax on the purchase price to a wholesaler, the taxpayer may take credit for the tax paid to the wholesaler from the tax due on the sale of the merchandise specifically included in his return to the Commissioner.
2. A sale of tangible personal property or service which is to become a component part of a structure or improvement erected, constructed, repaired or made only when such sale is made to a contractor taxable under Section 27-65-21 on the contract in which the component materials are to be used; and only when the contractor holds a Material Purchase Certificate as required by Section 27-65-21.
3. A sale of boxes, crates, cartons, cans, bottles and other packaging materials to a retailer or retail custom processor for use as a container to accompany goods or

services sold by said retailer or custom processor where possession thereof will pass to the customer at the time of sale of the goods or services contained therein.

4. The value of soft drinks and syrup withdrawn from the business by a manufacturer for sale at retail and food or drink withdrawn by a manufacturer or wholesaler to be sold through full service vending machines for human consumption.

100.02 **"Retail sales" shall mean and include:**

1. All sales of tangible personal property except those defined herein as wholesale and those made to a wholesaler, jobber, manufacturer or custom processor for resale or for further processing.
2. The value of any tangible personal property manufactured or purchased at wholesale, and any mineral or natural resource which is excluded from the tax levied by Section 27-65-15, which is withdrawn from the business or stock in trade and is used or consumed within this State in the business or by the owner or by any other person, whether or not in the regular course of business or trade.
3. A sale invoiced to a retailer but delivered to another person who pays for the merchandise upon taking possession.

101 **Tax on wholesale sale:**

Sales of beer and alcoholic beverages to a retailer for resale at retail are subject to wholesale sales tax. The rate is the same as the regular retail rate and the tax paid may be used as a credit against the retailer's liability for retail sales tax. Food and drink for human consumption is taxed at the 8% wholesale rate of tax when the operator of a full service vending machine places the merchandise in the machine for sale (see Title 35, Mississippi Administrative Code, Part IV, Subpart 4, Chapter 3.). All other sales at wholesale are exempt from sales or use tax.

102 **Records:**

1. The quantity of property or services sold or the price at which sold is immaterial in determining whether or not a sale is at wholesale. Sales may be classed as wholesale, or exempt, only if evidenced by proper and adequate records and invoices to substantiate the exemption from the tax on each individual sale.
2. The substantiation of wholesale or exempt sales must be by an invoice clearly indicating the date, the name and address of the vendor and vendee, the items sold and the price thereof. Such proof of wholesale or exempt sales shall be filed in chronological order and thus preserved for a period of three (3) years from the date of sale. These records shall be subject to inspection by the Commissioner and his agents, at their discretion, for the verification of returns filed by either the wholesaler or his customers. This requirement shall apply equally to a retailer making wholesale or exempt sales.
3. Any failure to comply with all the above requirements shall subject the violator to the retail rate of tax on all such violations.
4. Wholesale dealers and distributors of beer are further required to file detailed monthly reports with the Commissioner. These reports must show the retail beer permit number of retailers in legally wet counties.

103 Taxpayer's Discount

The wholesale tax is not subject to the 2% taxpayer discount and shall not be included in the amount on which the discount is taken.

104 (Reserved)

Chapter 02 – Isolated, Casual or Occasional Sales**100 SALES TAX**

101 Isolated or occasional sales, except sales of motor vehicles, made by persons not regularly engaged in business are not subject to sales tax. No sale, except a sale of a motor vehicle, is taxable under the Sales Tax Law if it is not made in the regular course of the business of a person selling tangible personal property.

102 "Motor vehicle" means a motor vehicle required to be registered or licensed by County Tax Collectors pursuant to Section 27-19-43, Mississippi Code of 1972. This includes private carriers of passengers, school buses, church buses, taxicabs, ambulances, hearses, motorcycles, private carriers of property, and private commercial carriers of property and drays of a gross weight of 10,000 pounds or less.

103 The purchase of a motor vehicle by a person, firm or corporation from another person, firm or corporation, which is not a licensed dealer engaged in selling motor vehicles, is taxable. The purchaser should pay the sales or use tax to the County Tax Collector at the time the vehicle is registered or licensed.

104 All sales made by officers of a court, pursuant to court orders, are occasional sales, with the exception of sales made by trustees, receivers, assignees, and the like in connection with the liquidation or conduct of a regularly established place of business. Examples of casual sales are those made by sheriffs in foreclosure proceedings, sales of confiscated property, and sales of tangible personal property, such as used equipment when the sale represents the disposal of capital assets that the seller does not offer for sale in his regular course of business. Example: Anyone selling his old boat rather than trading it in on a new one.

105 The bulk sale of an inventory of merchandise to a dealer is exempt from sales tax. This exemption does not include the liquidation of a business when the inventory is sold to the general public at sale or auction.

106 Mobile homes, vehicles (except motor vehicles as defined above) or other personal property repossessed by a bank or finance company and resold through the dealer who made the original sale will be regarded as a casual sale and will not be subject to sales tax. All other sales of repossessed property are subject to sales tax.

- 107 Sales of personal property (except for motor vehicles as defined above) through auctions, flea markets, antiques malls, or other similar establishments, are not classified as isolated, casual or occasional sales.
- 108 (Reserved)
- 200 USE TAX
- 201 Use tax will not be applicable to non-business personal property acquired outside of this State under conditions where a similar acquisition in this State would not be subject to sales tax. Business property acquired in any manner and imported into this State for use in a business is subject to use tax, with proper credit allowed for another state's tax.
- 202 (Reserved)

Chapter 03 – Leased Departments

- 100 Where an established business leased a portion of its shelves, counters or floor space to other persons selling tangible personal property or performing services taxable under the Sales Tax Law, the sales made by such leased departments or the gross income received shall be included in the tax return of the lessor who shall pay the tax thereon to the State. A lessor not otherwise subject to the tax shall obtain a license in behalf of the lessee.
- 101 When the lessee conducts the leased department in the same manner as an established business of like nature and gives evidence to the public that he is conducting his department separately from the lessor's business, the lessee may apply for a sales tax license, and file sales tax returns, provides separate records of his business are maintained. The lessor shall be secondarily liable for the tax in instances where the lessee does not fulfill his tax obligations under such license.
- 102 On or about January 1st of each year, the lessor shall furnish to the Commissioner, the names and addresses of their lessees, indicating the nature of their business. Use tax shall be paid to the State by the lessee.
- 103 The word "lease" used in this rule includes permitted occupancy regardless of consideration.
- 104 (Reserved)

Chapter 04 Sales to Banks and Credit Unions

- 100 Sales of tangible personal property or services to state and national banks and to state credit unions are subject to the retail sales and/or use tax. Federal Credit Unions organized under the Federal Credit Union Act are not subject to sales or use tax on tangible personal property or services purchased for their own use.

101 (Reserved)

Chapter 05 Interstate Commerce, Sales In

- 100 All sales from a business location within the State or by a Mississippi dealer are presumed to be taxable Mississippi sales unless and until the dealer can substantiate an authorized claim for exemption. In the case of exemption by reason of delivery of the goods outside the State to an out-of-state customer, the dealer is required to establish that such delivery did, in fact, take place and that such delivery was a condition precedent to consummation of the sale. A Certificate of Interstate Sale (Form 61-127) is to be used as substantiation when claiming an exemption on sales of airplanes, heavy equipment, boat motors, furniture, and appliances.
- 101 Sales of automobiles, trucks, truck-tractors, semi-trailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles which are exported from this State within forty-eight (48) hours and registered and first used in another state are exempt from sales tax. A properly executed Certificate of Interstate Sale (Form 61-127) must be maintained to substantiate sales of boats, all-terrain cycles or other equipment not required to be registered for highway use.
- 102 Persons operating a place of business in this State as well as one or more places of business outside this State are liable for sales tax on all non-exempt sales made by or delivered from the Mississippi business and are liable for collection of use tax on all non-exempt sales delivered in Mississippi by or from their out-of-state businesses.
- 103 Persons who do not maintain a place of business but who are represented in this State by salesmen who solicit or accept orders for merchandise which is subsequently delivered in this State are liable for collection of Mississippi Use Tax.
- 104 Sales are construed to be interstate commerce and exempt from the Mississippi Sales Tax levy when:
1. The seller is required by the sales agreement to physically deliver the goods sold in the vendor's equipment from a point in this State to a point outside this State, not to be returned to a point within this State, and provided that such delivery is actually made, or
 2. The seller is required by the sales agreement to deliver the goods to a common carrier or to the United States Post Office for transportation outside the State at the seller's direction either fob point of origin or fob point of destination, or
 3. The seller is required by the sales agreement to deliver the goods outside the state by use of an independent trucker.
- 105 Merchandise shipped from the point of origin in Mississippi which passes through another state before reaching the point of destination in Mississippi is not considered as a sale made through channels of interstate commerce and the receipts from property thus sold are taxable.

106 (Reserved)

Chapter 06 Government Exempt Sales – Property, Labor and Services

- 100 Sales of tangible property, charges for labor or services are exempt when sold to, billed to and paid for by the United States Government or the State of Mississippi, its departments and institutions, counties and municipalities.
- 101 Any state department, county or municipality, or any political division or subdivision thereof, or agency, institution, instrumentality, commission, board or district created by the legislature of the State of Mississippi and fiscally responsible to the State of Mississippi is construed to be a part of the state government.
- 102 This exemption does not apply to production taxes levied by Code Section 27-65-15 or contractor's tax levied by Code Section 27-65-21.
- 103 The sales, labor or service performed must be billed directly to the political entity and not to or through some contractor or quasi-governmental agency, and the title of the property or benefit from the service must pass to the government rather than to some beneficiary. Sales to government employees are taxable regardless of the fact that the employees may be reimbursed by the Government for the expenses incurred.
- 104 Retail sales of food for human consumption purchased with food instruments issued the Mississippi Band of Choctaw Indians under the Women, Infants and Children Program (WIC) funded by the United States Department of Agriculture are exempt from tax.
- 105 Retail sales of food for human consumption purchased with food stamps issued by the United States Department of Agriculture, or other federal agency are exempt from and after October 1, 1987.
- 106 Sales of class rings, pins, pictures, annuals, drinks, etc., to students are taxable even if billed to an exempt public or nonprofit private school. Food sold to a public or nonprofit private school for service in the cafeteria is exempt.
- 107 Materials purchased by contractors for use in the performance of a government contract are taxable. Sales by independent dealers, merchants or contractors on government reservations are taxable.
- 108 Sales made by the exchange service, officers club or government agency to members of the armed forces are exempt from tax under the Federal Buck Act.
- 109 Sales of merchandise by governmental agencies, political subdivisions or state institutions are taxable when in competition with private business.
- 110 Sales invoices must be maintained to substantiate all exemptions since no exemption certificates are issued by the Tax Commission.

111 (Reserved)

Chapter 07 Orphanages and Homes for Aged

- 100 Sales of tangible personal property to an orphanage, old men's or old ladies' home, supported wholly or in part by a religious denomination, fraternal nonprofit organization, or other nonprofit organization, are exempt from sales and use tax.
- 101 The following institutions in this State qualify under this exemption:
- | | |
|--|---------------|
| 1. Baptist Children's Village | Jackson |
| 2. Bessie J. Taylor Home | Greenville |
| 3. Blue Mountain Children's Home | Blue Mountain |
| 4. Cookson Hills Christian School (orphanage) | Lake |
| 5. Crestview, Incorporated | Jackson |
| 6. Crittenton Children's Home | Jackson |
| 7. Devereux Hall Orphanage | Natchez |
| 8. Dugan Memorial Home Association, Inc. | West Point |
| 9. Faith Haven, Inc. | Tupelo |
| 10. George County Golden Age Home | Lucedale |
| 11. Golden Age Nursing Home | Greenwood |
| 12. Green Hills Children's Home | Ripley |
| 13. Kings Daughters and Sons Rest Home | Meridian |
| 14. Kings Daughters Home | Natchez |
| 15. Kings Daughters Nursing Home (The Silver Cross Home | Brookhaven |
| 16. Martha Coker Convalescent Home | Yazoo City |
| 17. Masonic Home | Meridian |
| 18. Methodist Children's Home | Jackson |
| 19. Missionary Sisters of Sacred Heart | Ocean Springs |
| 20. Mississippi Baptist Children's Home | Laurel |
| 21. Mississippi Children's Home | Jackson |
| 22. Mississippi Sheriffs Boys' and Girls' Ranches, Inc. | Columbus |
| 23. Old Ladies' Home | Jackson |
| 24. Our Town, Inc. | Brookhaven |
| 25. Palmer Orphanage | Columbus |
| 26. Pine Vale Children's Home | Iuka |
| 27. Protestant Orphanage | Natchez |
| 28. Seashore Campgrounds Retirement Home, Inc.
(Seashore Manor) | Biloxi |
| 29. St. Mary's Orphanage | Natchez |
| 30. St. Michael's School for Boys (St. Michael's Farm) | Picayune |
| 31. Sunnybrook Children's Home, Inc. | Ridgeland |
| 32. Tupelo Children's Mansion | Tupelo (East) |
| 33. United Methodist Senior Services of Mississippi, Inc. | |
| a. Cedars Health Center, Inc. | Tupelo |
| b. Flowers Manor | Clarksdale |

c. Traceway Manor
 d. Trinity Place
 34. Willard F. Bond

Tupelo
 Columbus
 Madison

102 (Reserved)

Sub Part 04 Retail

Chapter 01 Gasoline Distributors and Service Stations

100 **Terms and Definitions.** The term “motor fuel” means gasoline, butane, diesel, natural gas or any other fuel used to propel or power motor vehicles or stationary engines.

101 **Gasoline Distributors.** Wholesale sales of motor fuel, motor oils, lubricants, tires, batteries, accessories and other sales by a distributor to licensed retailers for resale are exempt from sales tax.

102 **Service Stations.**

102.01 Retail sales of motor fuel are not subject to sales tax. All other sales of a service station, including soft drinks, washing, greasing, wrecker service, tire repairing and all other services are taxable at the regular retail rate of sales tax. The tax is due on the total selling price without any deduction for Federal or State excise taxes on oil or grease, or Federal manufacturers excuse taxes on tires, tubes and batteries. The selling price also includes carrying charges or any other amount added because of deferred payments. Sales must include the value of merchandise withdrawn from stock for use in the business or for personal use by the owner. Sales to customer using courtesy cards or letters of credit are taxable as cash sales.

102.02 The retailers computed tax liability may be reduced by the amount of wholesale tax paid to the distributor on purchases of beer during the period covered by the return. All purchase invoices must be retained to substantiate credit claimed for tax paid to the distributor.

103 All tools, supplies and equipment used in conducting the business of a service station or bulk distributor are taxable at the regular retail rate of sales or use tax. The tax paid on such purchases is not deductible as a tax credit from the retail tax liability.

104 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

105 (Reserved)

Chapter 02 Marble Works and Monument Sales

Sales

- 100 Sales of monuments, memorials, markers, cornerstones and building materials by manufacturers and dealers are subject to the regular retail rate of sales tax.
- 101 The following types of sales are exempt from sales tax:
1. Sales to licensed dealers or retailers for resale through the regular course of business.
 2. Sales to qualified contractors holding a Material Purchase Certificate when the marble or granite products are to become a component part of a structure.
 3. Sales to manufacturers for further processing.
- 102 Charges for lettering or engraving memorials, cornerstones, etc., are considered as a part of the gross receipts derived from the sale of tangible property, and are not an allowable deduction from income. Income received for lettering or engraving a customer's monument may be deducted from the gross income where no sale of tangible property is involved. For example, when additional inscriptions are desired on a customer's memorial, the charges for engraving are exempt.
- 103 Charges for delivery and/or installation of a memorial are taxable at the regular retail rate of tax, even though such charges are itemized on the sales invoice.
- 104 (Reserved)

Purchases

- 200 Purchases. Purchases of manufacturing machinery, machine parts or hand tools by manufacturers of monuments and marble products are taxable at the 1 1/2% special rate of sales or use tax. Purchases of raw materials to become a component part of the finished product for sale, industrial chemicals for use in the manufacturing process and lumber for use in crating monuments for shipment are exempt from sales or use tax.
- 201 Rentals. Rental of machinery and other tangible personal property is taxed at the same rate as sales of the same property.
- 202 (Reserved)

Records

- 300 Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 301 (Reserved)

Chapter 03 Coin Operated Machines

Vending Machines

- 100 Vending Machines. Sales of tangible property made through coin operated vending machines, except full service machines containing food and drink for human consumption, are taxable at the regular retail rate of tax on the entire receipts regardless of the manner in which such receipts are divided between the parties concerned. The gross proceeds of retail sales of food and drink for human consumption made through vending machines, service by full line vendors, are NOT taxable.
- 101 "Full service vending machine operators" or "full line vendors" are persons in the business of making sales through vending machines by placing the merchandise in the machine, taking the money and paying the location owner a space rental fee.
- 102 Where the merchandise contained in a vending machine, except machines containing ONLY food or drink for human consumption, is owned by a person other than the proprietor of the business in which the machine is placed and the merchandise owner (operator) has full control over collection of the receipts, such merchandise owner is liable for the tax on the machine sales and must obtain a sales tax permit to engage in business. This permit is sufficient for all machines operated by one owner, regardless of location. This sales tax license or permit is in addition to all other city, county and state privilege licenses or permits that may be required.
- 103 Complete records must be kept by the operator showing the location of each machine, date of installation, and date of removal from any location, and also the purchases and inventories of merchandise bought for all vending machines and gross receipts derived from the operations at each location.
- 104 The owner of the premises shall keep records showing a gross take of each machine located on his premises, and a record of the commissions or rents received at the time the money is removed from the machine by the operator.
- 105 (Reserved)

Amusement and Music Machines

- 200 Amusement and Music Machines. Income received from the operations of amusement and music machines is exempt from sales tax. However, clear and adequate records must be maintained by both the owner of the machines and the owner of the premises where such machines are located to substantiate their claims for exemption.
- 201 (Reserved)

Purchase of Merchandise for Resale

- 300 Purchase of Merchandise for Resale. Persons (operators) in the business of selling tangible property through coin operated vending machines are considered "dealers" in such property and may make purchases of merchandise exempt from sales tax.

- 301 Merchandise withdrawn from inventory by dealers (operators) to be placed in full service vending machines is taxable at the 8% wholesale rate of tax based on the cost of such merchandise. The tax liability accrues to the dealer at the time of withdrawal and should be remitted to the State with the same report and in the same manner as any other sales tax collected by the dealer on taxable sales. Sales of merchandise to qualified retailers for resale are NOT taxable. Sales of merchandise to consumers, except those made through full service vending machines, are subject to the regular retail rate of tax based on the gross proceeds of such sales.
- 302 (Reserved)

Purchases of Equipment and Supplies

- 400 Purchase of Equipment and Supplies. The owners of coin operated machines (vending, amusement or music) are the users of such property and as such are required to pay the regular retail rate of sales or use tax on all purchases of machines, machine parts, phonograph records, needles and other accessories or supplies.
- 401 (Reserved)

Chapter 04 – Photographers and Film Developers

Photographers and Videographers

- 100 Photographers and Videographers. Photographers and videographers are taxable at the regular retail rate of sales tax on retail sales to consumers of photographs, pictures, videos, diskettes and other tangible personal property and no tax is due on sales to licensed retailers for resale.
- 101 A photographer taking and selling pictures in Mississippi is subject to sales tax on his sales although his studio and photo finishing activities are in another state.
- 102 Amounts received from the sale of coupons must be included in gross income of the photographer even though the agent making the sale retains the full amount of the coupon as his commission for having obtained a customer. If the customer fails to redeem the coupon and the amount paid is not refunded, the income received is taxable.
- 103 When schools or other organizations are allowed a commission for handling the sales of a photographer or photo finisher, such commission must be included in the income of the business.
- 104 (Reserved)

Film Making

- 200 Film Making. Income from the production of a film, such as commercials, promotional videos, advertisements, etc., is not considered the sale of tangible personal property and as such, is not subject to sales tax. If the producer or developer of such film produces multiple copies for sale, the activity then becomes taxable as the sale of tangible personal property.
- 201 Purchases of film or videotape for use in performing a service are taxable for sales or use tax. Purchases of film or videotape that are to be resold are exempt from sales or use tax.
- 202 (Reserved)

Motion Picture Making

- 300 Motion Picture Making. Effective July 1, 2004, certain exemptions and a reduced rate are available for machinery, equipment and supplies used in the production of a motion picture in Mississippi. The term "motion picture" is defined to mean a nationally distributed feature-length film, video, television series or commercial made in Mississippi and does not include the production of television coverage of news and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Section 97-29-103.
- 301 Machinery and equipment used in the production of motion pictures shall be defined as manufacturing machinery subject to the special reduced rate of 1 ½%. Manufacturing machinery that is used in the production of a motion picture is not limited to a plant site use. Items defined as manufacturing machinery include:
1. Audio Equipment
 2. Camera Equipment
 3. Computer Equipment (for animation, editing or special effects)
 4. Editing Equipment
 5. Lighting Equipment
 6. Projection Equipment
 7. Sound Equipment
- 302 Sales of items used in the production of a motion picture are exempt at the point of sale when purchased using a valid Mississippi Direct Pay Permit. These items include: Film, videotape, building materials used in set construction, makeup, fabric used as or in construction of wardrobe, clothing shoes accessories and jewelry used as wardrobe, materials used as set dressing, props, materials used in the creation of special effects and expendables used by camera, grip and electric departments (i.e. tape, fasteners, compressed air, etc.)
- 303 The production company must apply for certification through the Mississippi Development Authority and must apply for a direct pay permit from the State Tax Commission. The Direct Pay Permit will be production specific, will only be good for the length of the production in this state and may only be used by the production company. The production company will be liable for self-assessing and paying any tax

that is due under its use tax number. The production company must use its Direct Pay Permit to be eligible to purchase items at the reduced rate or purchase items exempt from tax.

- 304 Production items bought or leased outside of Mississippi for exclusive use on location in Mississippi will be exempt from Mississippi use tax. Equipment or machinery bought or leased outside of Mississippi for exclusive use on location in Mississippi will be subject to a use tax of 1 ½%.
- 305 (Reserved)

Film Developing

- 400 Film Developing. Income received from developing, retouching, printing, tinting or other photo finishing activities is taxable at the regular retail rate of tax when performed for a consumer and no tax is due when performed for other licensed retailers for resale.
- 401 (Reserved)

Purchases

- 500 Purchases of cameras and flash equipment by photographers for use exclusively in the studio and other machinery and machine parts for studio use in processing film photographs or prints are taxable at the 1½% special rate of tax. Purchases by licensed retailers of merchandise for resale are exempt from sales or use tax. A studio is defined to include a facility where photographs are made **and** developed or processed.
- 501 Purchases of paper and film for use in making photographs are exempt from sales or use tax as raw materials and chemicals used in processing the same are likewise exempt. Machinery and machinery parts for studio use in developing film, photographs, prints or slides are taxable at the 1½% reduced rate of tax. Machinery or equipment provided for customer use to copy or reproduce photographs are subject to the 7% regular retail rate of tax.
- 502 (Reserved)

Chapter 05 – Printing Industry

Definition

- 100 Definition. The term "Printers", includes publisher, photostaters, photoengravers, blue printers, lithographers and other producers or reproducers of lettering or images of any kind on paper, metal plates or other material.
- 101 (Reserved)

Sales

- 200 Sales. Gross proceeds of sales by persons engaging in the printing business are taxable at the regular retail rate of tax on the total charge with the following exceptions:
1. Sales of printed matter or printing services to licensed dealers for resale at retail in the regular course of business are exempt from sales tax.
 2. Where stamped envelopes or post cards are purchased and printed for the customers, the amount of the postage may be deducted from the total charge.
 3. Sales of daily or weekly newspapers and periodicals or publications of scientific, literary or educational organizations which are exempt from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1954 as it existed as of March 31, 1975, are exempt from sales tax.
- 201 (Reserved)

Purchases

- 300 Purchases. Purchases by a printer of ink, printing stock, staples, stapling wire, binding twine, glue and other tangible personal property which become a component part of the printed matter, or are coated upon or impregnated therein, are purchases of raw materials and exempt from tax. Purchases of component materials which are used or consumed by the printer in the fabrication of plates, dies or mats incidental to a customer printing job are likewise deemed to be component materials and exempt from tax provided that title to such property passes to the customer. Special printing aids are likewise exempt from tax. The term "special printing aids" are those printing aids which are of unique utility to a particular customer, such as film, photo-direct paper or electrostatic paper and computographic paper, that are not reusable by the printer.
- 301 Purchases of machinery, machine parts, plates, electric power or other fuels used directly in the printing or reproduction process are taxable at the 1 1/2% special rate of tax.
- 302 Purchases of other equipment and supplies are taxable at the regular retail rate of tax.
- 303 (Reserved)

Rentals

- 400 Rentals. Rental or lease of machinery and other tangible personal property is taxed at the same as sales of the same property.
- 401 (Reserved)

Records

- 500 Records. Adequate records must be maintained to substantiate tax classifications of sales and purchases.

501 (Reserved)

Chapter 06 – Paper Products and Paper Dealers

100 Sales of paper products are classified according to the intended use of the product. Sales of raw materials to manufacturers or custom processors are exempt. Paper products sold to manufacturers, custom processors or wholesalers to accompany goods sold are exempt from sales tax. Paper products sold to licensed retailers for resale and containers to accompany goods or services sold by the retailer are exempt. Sales of materials for use by the purchaser for his own consumption, such as advertising or sales promotion materials, or materials furnished to merchants are taxable at the regular retail rate of tax. The schedule below is provided as a guide for dealers in paper products to use in determining the correct tax rate.

101 See attached Part IV, Appendix 1, titled Sales to These Businesses of Paper Products

102 (Reserved)

Chapter 07 Automotive Parts Jobbers

100 Sales of automotive parts to consumers are taxable at the regular retail rate of tax. Sales of automotive parts to licensed retail dealers, garages, automobile dealers or service stations who resell such parts on vehicles sold in the regular course of business, are wholesale sales and exempt from sales tax. “Wholesale sales” shall not include a transaction whereby property is delivered to and collection for same is made from a person that will consume the property rather than resell it even though the billing is to a licensed retailer.

101 Sales to licensed dealers of materials which become components of a product for sale or repair, such as paint, thinner, body solder, welding rods, flux, polish, rubber cement, etc., are exempt from sales tax.

102 Sales of supplies and equipment to be used by body shops, service stations, garages, dealers, etc., are taxable at the regular retail rate of sales tax. Examples: tools, cleaning materials, display and advertising equipment, sandpaper, oxygen and acetylene.

103 “Shade tree” mechanics that are not registered for sales tax as garages are classified as consumers, taxed at the regular retail rate of tax on purchases.

104 Copies of sales invoices and adequate records must be maintained to substantiate sales classifications.

105 (Reserved)

Chapter 08 Sales and Installations of Personal Property

Levy

- 100 Any person selling and installing personal property as a business activity is taxed by Section 27-65-17 on gross proceeds of sales, which include installation charges as defined by Section 27-65-3. Persons not in the business of selling who only install the owner's personal property are not subject to tax on labor charged to the owner unless taxed as a service provided by Section 27-65-23.
- 101 (Reserved)

Definitions

- 200 "Business activity" includes any activity or act engaged in (personal or corporate) for benefit or advantage, either direct or indirect and does not require that an inventory of goods be maintained.
- 201 "Installation" means the application of tangible personal property to real or personal property regardless of whether it becomes a part of the real property or retains its personal property classification. Examples of installed sales, or sales of property set in place are:
1. Aluminum and plastic siding;
 2. Appliances;
 3. Awnings;
 4. Carpets;
 5. Carports;
 6. Drapes;
 7. Fences;
 8. Floor coverings;
 9. Gasoline pumps;
 10. Glass;
 11. Machinery;
 12. Office and business equipment
 13. Pipe organs
 14. Roofing;
 15. Store fixtures;
 16. Tile
 17. Tombstones;
 18. Window air conditioning units;
 19. Window guards; and
 20. Similar property
- 201.01 For convenience, property included in this definition is referred to as "Rule 60 property".
- 202 "Installation" does not include construction work and carpentry when the principal activity is the erection of or repairs to buildings or structures.

203 (Reserved)

Tax Rates

300 Suppliers who contract for less than \$ 10,000 primarily for the sale and installation of property listed in this regulation, which may include some incidental construction or carpentry services, are taxed on the full installed sales price of the job at the regular retail rate of tax (for example, the sale and installation of roofing, tile, carpets, etc.) No sales tax is due when sold for resale to and installed for another dealer in such property.

301 Contracts over \$10,000 for the installation of Title 35, Mississippi Administrative Code, Part IV, Subpart 4, Chapter 8. property which qualify as an activity under Section 27-65-21 will be taxed at 3 1/2% (see Title 35, Mississippi Administrative Code, Part IV, Subpart 10, Chapter 1.). Activities which may qualify under this section are roofing, siding, tile setting, glass, floor covering and fence installation.

302 (Reserved)

Burglar and Fire alarm Systems

400 Burglar and Fire alarm Systems. When as the result of signing a monitoring contract, the alarm company provides and installs the alarm system for free or at reduced cost, the equipment is not taxed for use tax or treated as a withdrawal from inventory. Sales tax is due on the amount received from the customer. The monitoring service is taxable regardless of where the monitoring is taking place.

401 (Reserved)

Sales of Concrete and Asphalt

500 Sales of Concrete and Asphalt. A person with a valid sales tax number buying any concrete, including “ready mix” to be resold as a part of a taxable sale (i.e. fence), is considered buying for resale and may purchase the concrete tax free as a component material.

501 An asphalt or concrete contractor, whether or not they are manufacturing the product, is considered to be selling tangible personal property. On all residential paving jobs and on commercial paving jobs \$10,000 or less, 7% retail tax is due on the total installed price of the asphalt or concrete. Commercial jobs in excess of \$10,000 are taxable contracts and subject to the contractor’s tax and the reporting requirements under Section 27-65-21.

502 (Reserved)

Chapter 09 Manufactured Housing

- 100 Manufactured home (mobile home) is defined as a structure that is transportable in one or more sections and is built on a permanent chassis. A manufactured home is designed for use as a dwelling or office with or without a permanent foundation when connected to required utilities. The sale or lease of manufactured homes is taxed at the reduced rate of 3%.
- 101 Items permanently attached to and becoming a component part of the manufactured home at the time of the sale are included in the purchase price that is taxable at 3%. Examples would be a built-in dishwasher and central heating and air conditioning. Furniture and freestanding appliances are taxable at the 7% rate of tax. The sales price of the freestanding furniture and appliances should be separately stated from the sales price of the manufactured home. Likewise the 7% sales tax should also be separately stated from the 3% sales tax.
- 102 The State Tax Commission prefers that each sale be broken down into the amount representing the sale of the home and the amount representing the sale of any freestanding appliance and furniture. If specific accounting is not practical, or if the selling price cannot be separated, a factor of 3.4% may be used on the total selling price. This would be in lieu of computing the 3% sales tax separately from the 7% sales tax. Sales of unfurnished manufactured homes remain taxable at 3%. This formula is only applicable on the manufactured home and furniture/freestanding appliances. Any other costs that are charged by the dealer, such as site prep, septic tank installation, etc., must be taxed at the 7% rate and are not to be included in the selling price when using the composite 3.4% rate.
- 103 Repairs, repair parts and sales of replacement tangible personal property are taxable at the 7% rate of tax.
- 104 Amounts included in the sale of a manufactured home for “set up charges” are taxed at the same rate as the manufactured home. These charges are limited to the site built supporting parts upon which the manufactured home is placed. This structure may be either constructed to encompass the perimeter of the home or in the form of piers. It includes all exterior materials required to physically screen or shield such supports. Utility connections would be included if not billed separately. This is limited to charges included by the seller to connect the home to the water meter, utility service pole, etc. These charges do not include any charges by an electrician, plumber or utility service provider to run the utilities to the home site.
- 105 Other charges such as, but not limited to the grading of the home site, installation of a septic tank system, running utilities or installing a satellite system are not defined as set up charges. If the manufactured housing dealer provides these services to his customer, then the manufactured housing dealer is considered to be reselling such services and should provide his tax number to the contractor providing such services. The manufactured housing dealer is responsible for collecting and remitting 7% tax on all additional charges that are not “set up charges”. These charges should not be included in the amount that is taxed at the composite 3.4% rate.

- 106 On or after the July 1, 2001, any taxpayer operating a new or used mobile home dealership shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business. The amount of the bond shall be \$25,000 for a new mobile home dealer and \$10,000 for a used mobile home dealer, unless the taxpayer or Commissioner can show cause for another amount to be accepted.
- 107 Any manufactured home dealer who was issued a permit to engage in business prior to July 1, 2001 and who files delinquent tax returns for more than one period in a calendar year or who presents a check for payment of tax that is returned by the bank for insufficient funds, shall be required to post a bond equal to six months' tax liability. The six months' liability shall be determined by accumulating the past 12 months' liability (determined by returns filed or audit results) and dividing by 2.

108 (Reserved)

Sub Part 05 Services

Chapter 01 – Hotels, Motels, Night Clubs, Mobile Home and Trailer Parks

Levy

- 100 Section 27-65-23, Mississippi Code of 1972, levies a tax on the gross income of hotels, motels, tourist courts or camps and trailer parks. Tax is due at the regular retail rate.
- 101 (Reserved)

Definitions

- 200 A "hotel" or "motel" as used in this rule includes any establishment which is engaged in the business of furnishing rooms, cottages or cabins to transient persons. If it is immaterial that cooking facilities may or may not be furnished.
- 201 "Hotel" or "motel" includes any establishment furnishing bed and breakfast accommodations to transient persons.
- 202 For the purposes of this rule, a person who is renting from a condominium for a period of at least three consecutive, complete months or for a minimum of ninety consecutive days is not considered to be a transient person and no sales tax is due. Additionally, any hotel or motel may exclude the gross income from charges for non-transient guests. The hotel must have a building(s) set separate and apart from the other buildings that is held exclusively for long-term rental. The building must contain rooms with kitchen facilities and may not be used to provide lodging for transient persons. For the purposes of defining non-transient guest, the guest must enter into a contract at the beginning of the stay, for a period of at least three consecutive complete months or for a minimum of ninety consecutive days.

- 203 A "trailer park" is a term used to denote that type of park established for the purpose of accommodating travel trailers pulled either by automobiles or other type vehicles or self-propelled, which are in a travel or transient status and where utilities are connected in a temporary manner. For tax purposes, a "trailer park" is any one location where trailers, campers or other mobile units may be parked for a fee, either permanently or temporarily and irrespective of whether utility facilities are available. The gross income of trailer parks is subject to the regular retail rate of tax.
- 204 A "mobile home park" is a park establishment for the primary purpose of accommodating mobile homes which are permanently located, registered with the County Tax Assessor as provided by Section 27-53-5, hooked up to water, sewer, gas or electric utilities with permanent meter connections which are not easily disconnected, and tied down according to regulations and other requirements. Such facilities are considered a home and place of permanent residence. It therefore appears that the statute which specifically denotes "hotels, motels, tourist courts or camps and trailer parks" refers specifically to travel or transient accommodations and not to residents of mobile homes. Sales to mobile home residents of potable water, electricity, gas or other fuel for residential use are exempt from sales tax.
- 205 (Reserved)

Gross Income

- 300 Taxable Gross Income Includes (but is not limited to) Receipts From:
1. Admissions, minimum and cover charges for entertainment
 2. Attrition fees
 3. Auto storage – parking lots
 4. Banquet meeting room revenue with or without meals
 5. Cancellation fees
 6. Coin lockers
 7. Early departure or late departure fees
 8. Guaranteed no show revenue
 9. Laundry and valet service
 10. Local telephone charges, including per call charges
 11. Long distance telephone mark-up or up-charge, or any excess charge over and above the carrier charge
 12. Marina service
 13. Packages (example: golf, honeymoon, casino)
 14. Pet charges
 15. Radios, televisions, movies including pay per view services
 16. Refrigerator or safe charges
 17. Roll away bed charges
 18. Sales and rental of tangible personal property
 19. Service charges
 20. Transient room revenue

- 21. Vending machine sales (except full service vending machines)
- 22. Video game rental

- 301 Non Taxable Gross Income Includes Receipts From:
- 1. Child care charges (does not include admissions to areas of amusements where children are kept)
 - 2. Coin operated amusement and music machines;
 - 3. Commissions included in gross income of other taxpayers;
 - 4. Re-billed carrier long distance telephone charges that have been taxed by the service provider
 - 5. Rental of stores, offices or other commercial property to non-transients

302 (Reserved)

Exempt Sales

400 As a prerequisite to claiming the governmental exemption, the sales of property or service must be sold to, billed directly to and payment therefore made directly by the political entity and not to or through some contractor or quasi-governmental agency, and the title to the property or benefit from the service must pass to the government rather than to some beneficiary. Sales to government employees are taxable regardless of the fact that the employees may be reimbursed by the Government for the expenses incurred.

401 (Reserved)

Purchases

500 Hotels and motels must pay tax on purchases that are provided in a guest room as a part of the service of providing lodging. These purchases include items such as shampoo, soap, toilet paper, laundry bags, coffee, food, candy or other amenities. Tax is also due on purchases of linens, towels, and in room appliances. Purchases of food or beverage sold by the restaurant may be made exempt from tax as a wholesale sale. This includes food or beverage provided as a part of a continental breakfast.

501 Purchases or rentals of supplies and equipment used in the operation of a hotel, motel or night club, such as furniture, televisions, radios, signs, janitor's supplies, office supplies, etc., are subject to the regular retail rate of sales or use tax.

502 Wholesale tax paid on purchases of alcoholic beverages and beer for resale may be taken as a credit against the retail sales due on the retail sales of such merchandise.

503 (Reserved)

Reporting Requirements

600 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

601 (Reserved)

Chapter 02 – Laundries, Dry Cleaners and Linen Rental Companies

Levy

100 Section 27-65-23, Mississippi Code of 1972, levies a tax at the regular retail rate on the gross income of persons operating a laundry, cleaning, dyeing or pressing shop. No deduction is allowable on account of commissions or fees paid to agents soliciting this business. Section 27-65-101 (o) exempts the gross collections from self-service commercial laundering, drying, cleaning and pressing equipment.

101 (Reserved)

Gross Income

200 Income received from renting linens, uniforms and other tangible personal property in Mississippi is taxable at the regular retail rate of tax. No sales or use tax is due on property purchased by licensed linen rental companies or laundries for rental.

201 Income received from laundering or cleaning services for out-of-state customers is exempt when the property on which the service was performed is delivered to the customer either by common carrier or in the vendor's equipment.

202 Charges for alteration services are taxable when they are performed as a part of a laundering or cleaning activity.

203 Services, such as fading or dyeing, performed for a licensed dealer on property for resale at retail are exempt from sales tax.

204 (Reserved)

Purchases

300 Purchases by or sales to licensed laundries, dry cleaners and linen rental companies of water, soap and bleach dispensers, coin changers, air conditioners, bulk heads, signs and advertising, office supplies, labels, tickets, etc., which are used or consumed in the rendering of the services are taxable at the regular retail rate of sales or use tax. Purchases of soaps, naphthas, dyes and cleaning fluids are considered process chemicals and are exempt from tax. Purchases of coat hangers, wrapping paper, bags, etc., are exempt from sales tax.

- 301 Sales of electric power or other fuels for plant use only are taxed at a 1 ½% special rate of sales tax. Sales of manufacturing or processing machinery or machine parts to these establishments are taxed at the 1 ½% special rate of tax.
- 302 Sales of processing machinery, machine parts, soaps, supplies, etc., to hotels, taxable hospitals, taxable rest homes, etc., for their own use are taxable at the regular retail rate of tax. All sales (equipment, power, supplies, etc.) to persons in the self -service laundering business are taxable at the regular retail rate of tax.
- 303 Rental or lease of tangible personal property to these establishments is taxed at the same rate as sales of the same property.
- 304 (Reserved)

Reporting Requirements

- 400 Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 401 (Reserved)

Chapter 03 Renting or Leasing Tangible Personal Property

Definition

- 100 Definition. Property is rented when the lessor grants its possession and use to the lessee for a consideration. Property is not rented when the owner maintains continuous control by furnishing an operator or crew for its operation. Under these circumstances, a service is rendered other than the renting of property.
- 101 (Reserved)

Tax on Rentals

- 200 Tax on Rentals. Income from renting or leasing tangible personal property used within this State shall be taxed at the same rates as sales of the same property. The gross income of the business, except as otherwise provided, is to be included as taxable income. Charges to lessees which represent a recovery of expenses (repairs, transportation, hotel, meals, supplies, etc.) are in reality an allocation of the selling price to this cost of operation and cannot be excluded from the measure of tax imposed upon the gross income.
- 201 Rentals for re-rental by a lessor engaging in the renting or leasing business are wholesale sales and are not considered to be taxable income.

- 202 Lessors who rent transportation equipment to contract or private commercial carriers for use both within and without the State are taxed on that part of the income derived from use within this State. If specific accounting is impracticable, a formula may be used with approval of the Commissioner.
- 203 The total amount charged for rental of “you-drive-it” or “you-haul-it” vehicles is taxable income to the lessor, even though the lessee may use the property in other cities in Mississippi or in other states, and even though the charge may be collected by or with another person.
- 204 Rebilling or “pass through” motor fuel charges are not considered to be taxable rental income when separately invoiced from the charge for rental or lease. Sales of motor fuel by lessors are not subject to sales tax. The sales tax on the income from rental of transportation equipment is not allocable to cities, and the gross tax should be reported in total in the appropriate column of the sales tax return form.
- 205 Rentals of manufacturing machinery to manufacturers or custom processors are taxable at the 1 ½% special rate of tax; however, rentals of manufacturing machinery used to make wood containers for sale are exempt. Taxpayers with Direct Pay Permits may furnish the number to lessors and pay tax due on sales or rentals direct to the Commissioner in lieu of payment of the tax to the lessor.
- 206 (Reserved)

Purchases and Sales

- 300 Purchases and Sales. Persons qualified to do business in this State of renting or leasing tangible personal property are considered “retailers” and may purchase property to be rented exempt from sales or use tax. The tax, likewise, shall not apply to repair and repair parts of such property. All purchases of tools, supplies, machinery and equipment which are purchased for use in operating the business and not for rental are taxable at the regular retail rate of sales or use tax. Sales of property to consumers which has been rented or leased are considered to be “Retail Sales” and are taxable on the gross proceeds of such sales.
- 301 Owners or other persons receiving benefit from use of tangible personal property in this State are liable for use tax on the property.
- 302 (Reserved)

Tax on Motor Vehicle Rentals

- 400 Tax on Motor Vehicle Rentals. In addition to the 5% sales tax due on the rental of motor vehicles, a 6% motor vehicle rental tax is due on the gross income from the short term rental of motor vehicles. Therefore, the total tax due on short term rentals of these motor vehicles would be 11%. Short term rentals are defined as rental agreements with a term of

30 or less continuous days. For the purposes of this rule, “motor vehicle” is defined as any self-propelled, wheeled conveyance that does not run on rails and has a gross vehicle weight of 10,000 pounds or less. The total tax due on the long term (rental agreements in excess of 30 continuous days) rental or leasing of motor vehicles is 5%.

401 (Reserved)

Records

500 Records. Adequate records must be maintained to substantiate tax classifications of sales and purchases.

501 (Reserved)

Chapter 04 Termite and Pest Control Services

Sales

100 Every person engaged in the business of performing termite and pest control services is liable for the regular retail rate of sales tax on gross income.

101 Gross income received in connection with these services includes charges for treating for termites or other pests, the replacement of flooring, sills or other damaged portions of the building resulting from the infestation. This gross income also includes additional fees charged on an annual, semi-annual or other basis and labeled in some instances as inspection fees or continuation charges.

102 The exemption provided in the Sales Tax Law (“Sales of ...insecticides...used in growing and preparing agricultural products for market”) does not apply to sales of termite or pest control services or to sales of insecticides, rat poison and other materials for the control or prevention of rodents, insects, and other pests encountered outside the field of agriculture. The regular retail sales tax applies unless such materials are actually used in growing agricultural products for market such as cotton poison for boll weevils. The fumigation of products (beans, grain, etc.), while in storage is a taxable pest control service.

103 (Reserved)

Purchases

200 Purchases of building materials (lumber, nails, etc.) to repair damaged portions of the building resulting from infestation and materials (termite fluid, poison, distillate used in preparing preventive compounds, etc.) for treating are exempt from sales tax. Supply items (polyethylene, tape, staples, lumber, card board, etc.) tools and/or equipment used in, but not actually resold as a part of the treating or repair work beat the regular retail ate of tax at the time of purchase.

201 (Reserved)

Chapter 05 Public Storage Warehouse

Storage Warehouses

100 Storage Warehouses. A storage warehouse is a place where tangible personal property is kept and stored for a fee in the custody of a person operating a commercial business. The gross income received from such an activity is taxable at the regular retail rate of sales tax. Income received from storage and handling of perishable goods is exempt from tax. "Perishable goods" means frozen goods or goods that require refrigeration while stored in a public storage warehouse (example: meat, fish, poultry, vegetables, fruits, etc.). Perishable goods shall also include grain products which require aeration while stored in a public storage warehouse (example: soybeans, wheat, rice, oats, milo, etc.). Income received from the temporary storage of tangible personal property in this state pending shipping or mailing of the property outside this state is exempt from tax. The exemption is available to all property whether or not the final determination of the property's destination can be made prior to storage. It is the responsibility of the owner of the storage facility to obtain a signed Affidavit of Temporary Storage from each customer. The Affidavit is completed by the customer to indicate what percentage of goods will be shipped out of state. The percentage should be based on prior year's shipments. A reasonable estimate should be used if there is an absence of prior year information. This Affidavit must be completed yearly for each customer. Any Affidavit accepted in good faith will be accepted as satisfactory documentation of exempt sales. Sales tax is due on any goods to be shipped within this state.

101 (Reserved)

Rental of Storage Facilities

200 Rental of Storage Facilities. Income received from the rental of storage facilities for the storage of tangible personal property is exempt when the lessee maintains exclusive access to and control of the storage facility. Example: mini storage facilities where the lessee uses their personal lock. Income received from common storage facilities are subject to sales tax when multiple lessees have access to the same area of the storage facility.

201 (Reserved)

Moving and Storage Companies

300 Moving and Storage Companies. Purchases of equipment and supplies by a warehouse and drayage or moving business are taxable at the regular retail rate of sales or use tax. Persons engaged in the moving and storage business are considered to be consumers of packaging materials on which the customer's property is contained for storage or

transportation.

301 (Reserved)

Fuel Terminals

400 Fuel Terminals. Persons in the business of storing or warehousing fuel or other oil products for others are construed to be engaged in a taxable public warehouse activity. The method used in measuring charges, length of time that product remains in the terminal and the ultimate destination of the product does not relieve such persons of the sales tax liability. The storage and handling of natural gas in underground salt domes, caverns, or other underground structures are exempt.

401 (Reserved)

Chapter 06 – Computer Equipment and Services

100 Computer Hardware

1. "Computer Hardware" includes the components, accessories, machinery and equipment which constitute the physical computer assembly and the internalized instruction code which controls the basic operations (i.e. arithmetic and logic) of the computer and which causes the computer to execute instructions contained in system programs.
2. Rate and Application of Tax
Sales, leases, or rentals of computer hardware, parts, supplies, publications or other tangible personal property are taxable at the regular retail rate of sales or use tax unless otherwise exempt.

101 Computer Program and Software

1. a. "Computer Program" is a series of instructions that are coded for acceptance or use by a computer system which are designed to permit the computer system to process data and provide results and information. The series of instruction may be contained in or on magnetic tapes, printed instructions, or other tangible or electronic media or downloaded via the Internet. This definition includes computer game cartridges which allow certain games to be played on a television set through interaction with a computer or on home computers.
- b. "Computer Software" is a collection of computer programs which work in cooperation with one another to perform automated tasks.
2. Rate and Application of the Tax
 - a. The gross income received from computer program or software sales and services is taxable at the regular retail rate of sales tax. Computer program license fees (one-time or annual) and/or maintenance contract income are taxable regardless of how billed. Taxable services also include the design and creation of a web page regardless of the location of the hosting server.
 - b. The principal line of business of the seller is not material when determining the taxability of sales of computer programs or software. Any bank, savings and loan

or other thrift institution, accounting firm, computer program developer, dealer or other person is deemed to be a retailer when selling computer programs or software at retail to the final user or consumer.

102 (Reserved)

Professional Services

200 Professional Services. Professional services directly related to the technical design and programming of computer software are taxable and are included in gross taxable income.

201 Taxable professional services include but are not limited to:

1. Charges for installing, configuring, debugging, modifying, testing, or troubleshooting computer hardware, networks, programs or software, are taxable regardless of how such charges are billed.
2. The recovery of damaged, deleted, or lost data or other services using ARCserve or Norton PC Tools or other similar computer programs or software.
3. The initial charges for the training of user personnel or telephone support connected with the sale of computer hardware, programs, or software, are taxable regardless of when or where the services are provided.

202 Non-Taxable professional services include but are not limited to:

1. Identifying management information needs.
2. Analyzing business policies and conceptual design of new procedures.
3. Accounting and legal services such as advice on tax matters, assets management, budgetary matters, quality control, information security, operational and financial statements, auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets or adjusts such material.
4. Feasibility studies including economic and technical analysis of existing or potential computer hardware or software needs and alternatives.
5. Word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, and other computerized data and information storage or manipulation services are not taxable. This also includes charges for computer time used in providing these services.

203 However, when any of these services or other professional services is incidental to the sale of computer hardware, software, or programs, the entire charge is taxable.

204 (Reserved)

Use Tax

300 Use Tax. Section 27-67-3(i), defines computer software programs as tangible personal property for use tax purposes. The regular rate of use tax is due and payable from every person using, storing, or consuming such property within this state, possession of which

is acquired in any manner. However, software maintained on a server located outside the state and accessible for use only via the Internet is not taxable.

301 (Reserved)

Wholesale Sales

400 Wholesale Sales. Sales of tangible personal property and services to a licensed retailer for resale in the regular line of business are not taxable.

401 (Reserved)

Purchases

500 Purchases. Purchases or rental of equipment and purchases of supplies used by a vendor in providing services to a user are taxable.

501 (Reserved)

Reporting Requirements

600 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

601 (Reserved)

Chapter 07 Design, Engineering and Other Professional Services

100 Design, engineering and other professional services are exempt from tax when not related to sales of tangible personal property taxable by Section 27-65-17, services taxable by Section 27-65-23 or activities taxable by Section 27-65-21.

101 Sales of tangible personal property are taxed by Section 27-65-17 on the total gross proceeds of sales. Sales of certain services are taxed by Section 27-65-23 on gross income. Gross proceeds of sales include, but are not limited to, design, engineering and other professional services utilized in or related to the sale, manufacture and/or installation of tangible personal property when the service is billed by the seller regardless of the method billed. Gross income also includes income received from design, engineering and other professional services utilized in or related to performing a taxable service under Section 27-65-23.

102 Contracts or activities subject to the tax levied by Section 27-65-21 are taxable on the total contract price or compensation received from such contract or activity. Design, engineering or any other fees included in such contracts and/or receipts are subject to the tax levied by this section.

103 (Reserved)

Chapter 08 Grading, Ditching, Dredging or Landscaping

- 100 Persons engaged in the business of performing services of grading, excavating, ditching, dredging, or landscaping are liable for sales tax at the regular rate of tax on gross income except as otherwise provided.
- 101 The term "grading" means any commercial activity wherein through the use of equipment or otherwise an improvement is made to a road, land surface, or other job site such as, but not limited to, the grading of streets, highways, commercial projects and building lots, and shall include the terracing of land, land leveling and land forming, either farm., commercial, industrial, or residential.
- 102 The term "excavating" means any commercial activity wherein through the use of equipment or otherwise something is created through excavation such as, but not limited to, a swimming pool, basement for a building, pond, underground storage silo, or other similar or related facility.
- 103 The term "ditching" embraces any commercial activity wherein a trench, furrow, canal, dredge ditch, or irrigation system is made or constructed for irrigation, drainage or a boundary line, but is not limited to these activities.
- 104 The term "dredging" means any commercial activity of constructing, repairing or improving any ditch, irrigation system, canal, navigation channel or other trench or drainage ditch.
- 105 The term "landscaping" means any commercial activity wherein the grounds of any building or site are improved by contouring, forming or functional alteration of the land and includes the planting of flowers, shrubs or trees and the establishment of lawns and gardens. Landscaping does not include tree trimming, grass cutting, hedge trimming, or similar maintenance activities.
- 106 A person who performs such activities as a prime contractor on projects other than residential for compensation in excess of \$10,000.00 shall qualify and pay the 3½% contractor's tax in lieu of the regular retail rate of tax.
- 107 Contracts entered into with farmers for the clearing of trees and underbrush is not taxable. If there is any grading, excavating, ditching, dredging, or landscaping involved, the total contract would then be subject to tax.
- 108 The activity of a person engaged in the stripping of top soil or the mining, loading, and hauling of a natural resource predict taxable under Section 27-65-15 (see Title 35, Mississippi Administrative Code, Part IV, Subpart 7, Chapter 1.) is not "grading or excavating" within the scope of Section 27-65-23 and as such is not subject to sales or contractor's tax.

- 109 Contracts for excavation and removal of contaminated soil for environmental purposes are subject to sales or contractor's tax.
- 110 Grading, excavating, ditching, dredging or landscaping services performed for agricultural or soil erosion purposes are taxable, even when such work is paid for in full or in part by a United States or State of Mississippi Governmental entity, or when a farmer or another person may be reimbursed in full or in part by a Governmental entity. Effective June 1, 1992, and after, income from grading, excavating, ditching, dredging or landscaping activities performed for a farmer on a farm for agricultural or soil erosion purposes is exempt from retail sales tax when such income does not exceed \$10,000.00. "Agricultural or soil erosion purposes" shall include activities such as terracing, land leveling for purposes of growing crops, preparation of pasture land, creation or deepening of farm ponds, irrigation or drainage ditches, and other similar activities where the purpose of such activity is to improve land where crops are grown or where livestock is allowed to roam or graze. "Agricultural or soil erosion purposes" shall not include activities which are part of a commercial construction activity such as the building or improving of poultry houses, barns, sheds, roads or other similar structures. Income not exceeding \$10,000.00 received from such activities is exempt from tax when sold to and billed directly to and payment therefore is made directly by a United States or State of Mississippi Governmental entity. Contracts in excess of \$ 10,000.00 including those with governmental entities are subject to the contractor's tax levied by Section 27-65-21 since there are no statutory exemptions from the contractors' tax levy.
- 111 No sales tax is due on a contract to fill in a hole, trench, ditch or other cavity in the earth where the principle activity performed is the transportation of fill dirt to the job site, the service of compacting and leveling being an inconsequential element of the transaction, even though the total compensation received is in excess of \$10,000.00. If, on the other hand, the principal activity performed is the grading or land forming of the job site, the service of removing excess dirt or placement of fill dirt being an inconsequential element of the transaction, sales tax or contractor's tax is due on the total compensation received.

112 (Reserved)

Chapter 09 – Car Washes

Levy

- 100 Section 27-65-23 of the Mississippi sales tax law taxes car washing with an exemption provided in Section 27-65-111(x) for self-service, coin operated car washes and car washes performed using portable high pressure washing equipment when the service is performed on the premises of the customer.
- 101 Self service, coin operated car washes where the customer deposits money for the car wash are exempt. This includes self-service bays where the customer washes his own vehicle or where the vehicle is washed by automatic wash equipment. Automatic car

wash bays located at facilities such as convenience stores, gas stations and oil change facilities are considered to be self-service, coin operated car washes and are exempt. In order for a car wash facility to be exempt, the facilities' employees cannot provide any assistance in the washing, drying or detailing of the automobile. Manual car washes, detail shops, and those with a mixture of manual and automatic services are subject to tax at the regular retail rate.

102 (Reserved)

Purchases

200 Exempt car washes must pay tax on any supply items such as soap, wax, water, or any other items dispensed through the washing equipment. The car wash operator should also pay tax on the purchase of items sold through vending equipment located on the premises.

201 Car wash facilities whose services are taxable may buy items exempt from tax if they remain with the car, such as wax. Purchases of supplies that are used or consumed by the car wash in performing its service are taxable. These include items such as soap, water, tire cleaner, and rags.

202 (Reserved)

Sub Part 06 Utilities

Chapter 01 Electric Power, Light, Gas and Other Fuel Distributors

100 Levy

101 Sales to consumers of electricity, natural gas, liquefied petroleum gas or other fuels and services related thereto by electric power associations, natural gas districts, municipalities, privately owned businesses or stock companies, or any other persons are taxable at the regular retail rate of sales tax, except as otherwise provided. These sales are exempt when sold for residential heating, lighting or other residential, noncommercial, nonagricultural use.

102 (Reserved)

200 Residential Usage

201 In order to qualify for the residential exemption, the utilities must be sold to, billed to, and paid for by the homeowner or resident of the facility. Residential customers may include, but are not limited to, privately owned hunting and fishing camps, summer homes, cabins, or apartments. Hunting or fishing camps that provide hunts and/or accommodations for a fee are not allowed the residential exemption and are subject to the regular retail rate of 7%. Vacant apartments with utilities being billed to the apartment

complex or manager are not eligible for the residential exemption. Private homes or residences owned by a business or corporation that are used for commercial purposes and that may be used to provide overnight stay on a temporary or transient basis are subject to the regular 7% rate of tax. Such common establishments include bed & breakfast facilities. Any apartment or home that may have mixed usage (residential/commercial) must be taxed at the higher 7% rate unless there is a separate meter for the business (ex. Business shop, poultry farm, commercial barn, repair garage, etc.). This does not include individuals who maintain a home office.

- 202 (Reserved)
- 300 Manufacturing, Industrial and Agricultural Usage
- 301 Sales to manufacturers, custom processors or public service companies for industrial purposes at the plant site are taxable at the special rate of 1 ½%. This includes that used to generate electricity, to operate power line substations and pipeline compressor or pumping stations.
- 302 The sales of fuel used in the production of electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale are exempt from tax from and after July 1, 2003.
- 303 The special 1 ½% industrial rate shall also apply on sales of utilities to a producer for use directly in the production of poultry or poultry products, the production of livestock and livestock products, the production of plants or food by commercial horticulturists, the processing of milk and milk products, the processing of poultry and livestock feed and the irrigation of farm crops. Any utilities used in the production of agricultural or livestock products for market are subject to the 1 ½% rate. This does not include breeders of domesticated animals not sold for food or other farm related purposes.
- 304 Manufacturers holding a valid direct pay permit must provide their direct pay permit to its utility providers. The manufacturer will not be charged any tax by the utility provider and will be responsible for remitting the correct tax directly to the Tax Commission. This includes the 1 ½ % rate for manufacturing activities and the regular retail rate for any non-manufacturing usage. The direct pay permit should be used for all utility purchases including electricity, gas, and water. Any business eligible for the 1 ½ % rate of tax which does not hold a direct pay permit must contact the Tax Commission for a letter authorizing its eligibility to purchase its electricity and natural gas at the reduced rate. Utility companies must have their customers direct pay permit or authorization letter to sell electricity or natural gas for non-residential purposes at a rate less than the regular retail rate.
- 305 Examples of businesses and fuel usage which may qualify for the special 1 ½% industrial rate include the following:
1. Bakeries
 2. Boat builders

3. Bottlers
 4. Brooders and incubators
 5. Cabinet shops
 6. Cold storage processors
 7. Commercial horticulturists
 8. Compressor or pumping stations
 9. Cotton compresses and gins
 10. Creosoting and treating plants
 11. Dairy barns
 12. Electricity generating plants
 13. Electric power sub-stations
 14. Feed mixers and processors
 15. Fish farm irrigation
 16. Garment plants
 17. Hatcheries
 18. Hot-mix asphalt plants
 19. Irrigation
 20. Laundries and dry cleaners
 21. Livestock productions
 22. Marble works
 23. Meat packers
 24. Milk processors
 25. Naval stores
 26. Pecan shellers
 27. Planing mills
 28. Poultry production
 29. Printing shops
 30. Ready mix concrete
 31. Saw Mills
 32. Steel fabricators
- 306 The regular retail rate of tax applies to sales of utility services for all commercial and non-industrial use.
- 307 (Reserved)
- 400 Taxability of Other Income
- 401 All receipts from customers which are not refundable or which are not investments in a marketable equity are considered to be gross income, taxable in the class in which they fall. Examples are:
1. Amortization charges
 2. Connection or reconnection charges
 3. Contributions to line extensions or relocations (aid to construction)
 4. Forfeited membership deposits
 5. Membership fees and deposits (non-refundable)

6. Penalties for late payments (forfeited discount)
 7. Sales of electricity, gas and other fuel
 8. Service calls on property of customer (meter test, etc.)
- 402 Contributions to line extensions or relocations (aid to construction) made during construction of a residence when billed to the contractor are taxable at the regular retail rate. All charges billed to the homeowner are residential and exempt. Utilities billed to contractor for temporary use during construction are taxable at the regular retail rate.
- 403 Charges billed to a homeowner's association for use in areas such as, but not limited to, street lighting, subdivision entrance lights, swimming pools, recreational facilities, and clubhouses are taxable at the regular retail rate.
- 404 (Reserved)
- 500 Exemptions
- 501 Sales to the following are exempt:
1. Housing authorities
 2. Muscular Dystrophy Association, Inc.
 3. Non-profit water associations
 4. Orphanages, old men's or ladies' homes, Y.W.C.A, Y.M.C.A., Boys' or Girls' Clubs operated by nonprofit organizations
 5. Qualified non-profit hospitals
 6. Qualified non-profit private schools
 7. Salvation Army
 8. State of Mississippi; its counties, municipalities, departments and institutions
 9. U. S. Government; its departments and institutions
 10. Chapter of the National Multiple Sclerosis Society
 11. Chapters of the National Association of Junior Auxiliaries, Inc.
 12. Qualified public or private non-profit museums of art
 13. Qualified domestic violence shelters
 14. Qualified alumni associations of state-supported colleges or universities
 15. Institute for Technology Development
 16. Mississippi Technology Alliance
- 502 (Reserved)
- 600 Miscellaneous Information
- 601 Consumers who purchase electric power directly from the Tennessee Valley Authority, are liable for use tax on the purchase price. The Use Tax Law applies the same rates as are levied under Sales Tax Law on similar transactions.

- 602 Use or consumption by the producer, manufacturer or distributor of the product or service produced, manufactured, or purchased at wholesale is taxable at the appropriate rate, measured by the cost or value of the product or service.
- 603 Sales of appliances and services related to the installation or servicing thereof as well as sales of any other merchandise to residential consumers are taxable at the regular retail rate of tax. This includes accommodation sales and sales to employees.
- 604 (Reserved)
- 700 Purchases
- 701 Purchases by utility companies are subject to tax as follows:

	Private or Public Utilities	Governmental Utilities	EPA's
Automobiles, trucks, etc (10,000 pounds or less gross weight)	5%	0%	3%
Automobiles, trucks, etc (over 10,000 pounds gross weight)	3%	0%	1%
Electricity or other fuel for use in operating the generating or distribution facility	1 ½%	0%	1 ½%
Manufacturing machinery and machine parts	1 ½%	0%	1%
Motor Fuel	0%	0%	0%
Office furniture and equipment	Regular retail rate	0%	1%
Other property for use in operating the generating or distribution system	Regular retail rate	0%	1%
Tangible personal property and services for resale in the regular course for business	0%	0%	0%
Telephone, lights and water	Regular retail rate	0%	Regular retail rate
Tools and equipment	Regular retail rate	0%	1%

- 702 Rental or lease by utility companies of tangible personal property is taxed at the same rates as sales of the same property.
- 703 (Reserved)
- 800 Filing Requirements
- 801 Distribution of Sales Tax by Cities (Form 72-300) must be completed as a supplement of the sales tax return by any person rendering utility services. The 2% tax discount does

not apply to utility charges by utility service companies. Adequate records must be maintained to substantiate tax classification of sales and purchases.

802 (Reserved)

Chapter 02 Telephone Companies, Mobile Telephone and Telephone Answering Services

100 Tax Rates

101 Intrastate Charges - Telephone companies are liable for the regular 7% retail rate of sales tax. Telephone companies are liable for the regular 7% retail rate of sales tax on gross income from intrastate business, pursuant to the provisions of Section 27-65-19 including toll charges, installation, activation or connection fees, the basic fee, equipment or rental fee, maintenance and any other related charge. When intrastate toll charges are split between two or more companies, the company doing the billing to and collecting from individual subscribers will be responsible for collection and reporting of all sales taxes applicable.

101.01 Effective August 1, 2002, all mobile and cellular telephone companies are liable for tax at the rate of 7% on the gross income received from charges for transmission of messages or conversations, including toll charges, air time charges, activation or connection fees, and other related charges, between points within any single state. The taxes levied on mobile and cellular telephone companies apply to services that are provided to a customer by a home service provider, if the customer's place of primary use is located within this state.

102 Interstate Charges - Effective August 1, 2002, telephone companies are liable for a 7% tax on the gross income from interstate telecommunication services either originating or terminating in this state and charged to a service address located in this state. A credit will be allowed for taxes paid to another state that are levied under the authority of that state and imposed on interstate telecommunications charges. This credit is limited to the smaller of the 7% tax due on the call or the tax properly paid to another state on that call.

102.01 Effective August 1, 2002, mobile and cellular telephone companies shall also be liable for tax at the rate of 7% on the gross income received from all charges for services that originate in one state and terminate in any other state. The taxes levied on mobile and cellular telephone companies apply to services that are provided to a customer by a home service provider if the customer's place of primary use is located within this state. All taxes collected for Interstate Long Distance charges are diverted to the Telecommunications Ad Valorem Tax Reduction Fund and must be reported separately by using Tax Code 80 on the monthly Sales Tax Return (Form 72-010).

103 Bundled Transactions. A "bundled transaction" means a transaction that consists of distinct and identifiable properties or services which are sold for a single non-itemized price, but which are treated differently for tax purposes. Effective August 1, 2002, telephone companies (land based or wire line, cellular, mobile, or wireless providers), must report the tax due from intrastate long distance and local service and the tax due

from interstate long distance tax separately (Tax Code 71 and Tax Code 80, respectively). The breakdown of actual charges should be used if available. However, when the revenue is received from the sale of a “bundled transaction” which includes both intrastate and interstate usage, the telecommunications provider shall allocate the price among the services by either identifying the portion of the price attributable to each service from its books and records kept in the regular course of business or based on a reasonable allocation methodology approved by the commission. Effective with services provided which are billed to customers on or after July 1, 2004, any telecommunications provider who provides “bundled transactions” to its customers for a single non-itemized price, must charge tax on the total cost of the “bundled transaction” unless the provider can reasonably identify that non-taxable portion from its books and records kept in the regular course of business.

- 104 Prepaid Telephone Calling Cards and Authorization Numbers - The sales of a prepaid telephone calling card or prepaid authorization number shall be deemed to be the sale of tangible personal property subject only to such taxes imposed by law on the sale of tangible personal property. If the sale of a prepaid telephone calling card or prepaid authorization number does not take place at the vendor’s business, it shall be conclusively determined to take place at the customer’s shipping address. The reauthorization of a prepaid telephone calling card or a prepaid authorization number shall be conclusively determined to take place at the customer’s billing address. The phone call paid for with the calling card or prepaid authorization number will be exempt.
- 105 Phones, Appliances and Other Merchandise - Sales of appliances and other merchandise to consumers are taxable at the regular retail rate of tax. Cellular phones given away or sold at a reduced amount as the result of signing a cellular service contract, are not subject to use tax or treated as a withdrawal from inventory. Sales tax is due on the amount received from the customer.
- 106 Telephone Answering or Paging Services - The gross income of telephone answering or paging services, whether by person or machine, is taxable at the regular retail rate of sales tax as levied by Section 27-65-23.
- 107 (Reserved)
- 200 Mobile Telecommunication Provisions
- 201 “Place of Primary Use” – the street address representative of where the customer’s use of mobile telecommunications services primarily occurs, either the residential street address or business street address of the customer.
- 202 “Customer” – the person or entity that contracts with the home service provider for mobile telecommunication services. If the end user is not the same as the contracting party, the end user of the mobile telecommunications services shall be considered the customer. A reseller of mobile telecommunication services or a serving carrier is not considered a customer.

- 203 “Home Service Provider” – the facilities-based carrier or reseller with which the customer contracts to provide mobile telecommunication services.
- 204 A home service provider shall be responsible for obtaining and maintaining the customer’s place of primary use. The home service provider, acting in good faith, is entitled to rely on the address supplied by each customer in determining place of primary use and may be held harmless from any additional tax liability resulting from a different determination of place of primary use. All customer addresses relating to service contracts in effect as of August 1, 2002 shall be deemed that customer’s place of primary use for the remaining term of the contract or agreement. The home service provider must obtain valid primary use addresses for extensions or renewals of such contracts or month-to-month services provided after the expiration of a contract.
- 205 If the address used by the home service provider is determined to be incorrect, the commission shall give notice to the home service provider to change the place of primary use on a prospective basis effective with the date of the notice. However, any customer whose place of primary use is deemed incorrect shall have an opportunity to demonstrate that address is correct.
- 206 The commission has the right to collect any taxes due directly from the customer that has failed to provide an address that meets the definition of the term “place of primary use” which results in taxes being due.
- 207 (Reserved)
- 300 Wholesale Sales
- 301 Effective July 1, 2002, charges by one telecommunications provider to another telecommunications provider for services that are resold, including, but not limited to, access charges, are exempt provided that the purchaser holds a valid sales tax permit issued under Section 27-65-27, Mississippi Code of 1972 and the purchaser is either located in this state or is providing telecommunications services in this state.
- 302 (Reserved)
- 400 Sales to Direct Pay Permit Holders
- 401 Effective July 1, 2002, charges by one telecommunications provider to another telecommunications provider for services that are resold, including, but not limited to, access charges, are exempt provided that the purchaser holds a valid sales tax permit issued under Section 37-65-27, Mississippi Code of 1972 and the purchaser is either located in this state or is providing telecommunications services in this state.
- 402 (Reserved)

- 500 Non-Taxable Fees
- 501 Charges by a service supplier for county emergency telephone (E-911) services are county fees and are not subject to any sales or use tax, and shall not be considered revenue of the service supplier for any purpose (Section 19-5-313).
- 502 (Reserved)
- 600 Sales to Colleges and Universities
- 601 Sales to Colleges and Universities. Charges for telephone services which are billed to “exempt” educational institutions are exempt from sales tax provided the use of the service is ordinary and necessary to the operation of the institution; however, sales tax should be added by the telephone company to any part of the charge made to the educational institution which will be re-billed by the institution, in any manner, to the students, faculty members or any other persons resulting from private use of the service. Charges re-billed to students, faculty members, etc. by the “exempt” institution which have previously borne the sales tax are considered to be pass-through charges and are not subject to further sales tax. Charges which are billed directly to individual students, faculty members, etc. are taxable at the regular retail rate of sales tax. The institution must charge sales tax on such services when the telephone company is unable to identify individual taxable services and a charge is made, in a manner, by the institution. The institution is liable for sales tax on intrastate charges to students, faculty members, etc., for sharing common long distance facilities.
- 602 (Reserved)
- 700 Purchases
- 701 Electricity purchased by telephone companies for microwave and other transmission use is taxable at the special rate of 1 ½% rate. Purchases by licensed retailers of appliances and other merchandise for resale in the regular course of business are exempt from sales and use tax. All other purchases are subject to the regular retail rate of tax. All telecommunications providers, with certain exceptions, are required to obtain a Direct Pay Permit for purposes of reporting and paying to the State Tax Commission the sales and use tax applicable to purchases or rentals of tangible personal property and services in lieu of payment to the vendor.
- 702 (Reserved)
- 800 Reporting Requirements
- 801 Adequate records must be maintained to substantiate tax classification of sales and purchases.
- 802 No taxpayer discount is allowed on services taxed under Section 27-65-19.

- 803 Distribution of Sales Tax by Cities (Form 72-300) must be completed as a supplement of the sales tax return by telephone companies rendering utility services.
- 804 All taxes due from Intrastate Long Distance charges and Local Service charges must be reported on the sales tax return using Tax Code 71 and all taxes due from Interstate Long Distance charges must be reported on the sales tax return using Tax Code 80 (Form 72-010).
- 805 (Reserved)

Chapter 03 Telegraph Services

Taxable Income

- 100 The gross income of a telegraph business is subject to the regular retail rate of sales tax on charges for transmitting messages between points within this State, with no deduction for any part of an intrastate rate charge because of routing across a state line. Rental of tangible personal property and any other miscellaneous income, such as charges made in connection with local pick-up and delivery service, are likewise taxable.
- 101 (Reserved)

Exemptions

- 200 Exemptions from tax arise from charges made for transmission of messages between this State and other state or foreign counties. Charges for transmission of messages for the State of Mississippi, its counties and municipalities, and the Federal Government are exempt. Adequate records must be maintained to substantiate exempt sales
- 201 (Reserved)

Purchases

- 300 Purchases of all supplies and equipment are subject to the retail sales or use tax without any exemption due to the use of the equipment in interstate commerce.
- 301 Rental or lease of tangible personal property to telegraph companies is taxed at the same rate as sales of the same property
- 302 (Reserved)

Chapter 04 Water

Levy

- 100 Sales to consumers of potable water and services related thereto by rural water associations, municipalities, privately owned businesses, stock companies or any other persons are taxable at the regular retail rate of sales tax, except as otherwise provided.
- 101 Sales of potable water and services related thereto are exempt when sold for residential, noncommercial or non-agricultural use. In order to qualify for the residential exemption, the water must be sold to, billed to, and paid for by the homeowner or resident of the facility. Residential customers may include, but are not limited to, privately owned hunting and fishing camps, summer homes, cabins, or apartments. Charges billed to a homeowner's association for use in areas such as, but not limited to, swimming pools, clubhouses, sprinkler systems are taxable at the regular retail rate of 7%. Hunting or fishing camps that provide hunts and/or accommodations for a fee are not allowed the residential exemption and are subject to the regular retail rate of 7%. Vacant apartments with water being billed to the apartment complex or manager are not eligible for the residential exemption. Private homes or residences owned by a business or corporation that are used for commercial purposes and that may be used to provide overnight stay on a temporary or transient basis are subject to the regular 7% rate of tax. Such common establishments include bed & breakfast facilities. Any apartment or home that may have mixed usage (residential/commercial) must be taxed at the higher 7% rate unless there is a separate meter for the business (ex. Business shop, poultry farm, commercial barn, repair garage, etc.). This does not include individuals who maintain a home office. The regular retail rate of tax applies to all other sales. The industrial rate does not apply to water sales as in sales of electricity and natural gas.
- 102 (Reserved)

Gross Income

- 200 Sales of appliances and services related to the installation or servicing thereof as well as sales of any other merchandise to residential consumers are taxable at the regular retail rate of tax. This includes accommodation sales and sales to employees.
- 201 All receipts from customers, paid in advance or after the fact, including complete grants, which are not refundable or which are not investments in marketable equities are considered to be part of the service rendered by the water utility and are included in gross income and taxable in the class in which they fall.
- 202 Various income accounts are classified as follows:
- 202.01 Taxable:
1. Charges for line extension;
 2. Charges for setting or installing meter;
 3. Connection charges, including sterilization, inspection fees, tap on fees, etc.;
 4. Non-refundable membership fees;
 5. Penalty for late payment - forfeited discounts;
 6. Plumbing services on customer's property;

7. Reconnection charges; and
8. Water sales, including fire protection sprinkler charges.

202.02 Any of the above charges made to a residential customer are exempt when billed by the utility company. Any charges for the above listed services performed by a plumber are taxable pursuant to Section 27-65-23. Any charges for line extensions or relocations made during construction of a residence when billed to the contractor are taxable at the regular retail rate of tax. Charges for water billed to the contractor for temporary use during construction is also taxable at the regular retail rate of tax.

202.03 Nontaxable:

1. Grants in Aid of Construction (Government, private foundations, or disinterested parties);
2. Investment income;
3. Meter deposits (refundable);
4. Permit charges on plumbing installations;
5. Real estate rentals;
6. Refundable membership fees;
7. Reimbursement for line relocation;
8. Sales of potable water for residential use;
9. Sales or exchanges of water between public utilities;
10. Scrap sales; and
11. Sewage charges if separately itemized.

203 (Reserved)

Exempt Sales

300 Sales to the following are exempt:

1. Housing authorities;
2. Ice manufacturers for use as an ingredient in the manufacture of ice for sale;
3. Muscular Dystrophy Association, Inc.;
4. Qualified nonprofit hospitals, nonprofit private schools, orphanages, old men's or old ladies' homes, YMCA, YWCA, Boys' or Girls' clubs, operated by nonprofit organizations
5. Salvation Army
6. State of Mississippi, its counties, municipalities, departments and institutions
7. U.S. Government departments and institutions.

301 (Reserved)

General

400 Distribution of Sales Tax by Cities (Form 72-300) must be completed as a supplement of the sales tax returns by water companies.

- 401 Purchases of equipment, chemicals and other supplies by privately owned water systems are taxed at the regular retail rate of sales or use tax except that purchases of chlorine, sodium fluoride or other chemicals which, after being added, will remain in the water to the point of the sale for ultimate use are exempt from sales tax. Purchases of tangible personal property and services which are used in the ordinary and necessary operation of nonprofit water associations or corporations and municipally owned and operated systems are exempt from tax.
- 402 All other sales and purchases claimed as exempt must be substantiated by sales invoices or other records approved by the Commissioner.
- 403 (Reserved)

Chapter 05 – TV Cable Systems and Similar Activities

Levy

- 100 Every person engaging or continuing in the business of TV cable systems, subscription TV services and other similar activities are liable for the regular retail rate of tax on gross income from such services including the basic fee, installation and connection fees, signal descrambling fees, equipment or rental fees, maintenance fees, sales of tangible personal property (program schedules, etc.) and any other related charges.
- 101 Sales of TV cable or subscription services for the private use of students, faculty members or any other person enrolled or domiciled at an “exempt” school, college or university are taxable at the regular retail rate of tax.
- 102 (Reserved)

Installation and Services

- 200 Persons performing contracts or providing services for TV cable or subscription companies are taxable as follows:
1. Hook-up, repair or any service on a TV cable transmission line, which is to be resold, is not subject to sales tax. Such sub services are taxable at the regular retail rate of tax when resold to a consumer.
 2. Services or repairs on a TV cable transmission line, which are not for resale, are taxable at the regular retail rate of tax.
 3. Contracts (on a project basis) in excess of \$10,000 are taxable at the 3 ½% contractor’s rate of tax levied by Section 27-65-21. This would include contracts for pre-wiring a building or complex, except for residential construction, when performed for an owner. Compensation received for work which is to be resold to a consumer (example: hook-up service for residences) should not be included in the total contract receipts when properly identified.
 4. Subcontracts performed for general contractors on qualified jobs are not subject to sales tax.

201 (Reserved)

Purchases

300 Purchases of tangible personal property by licensed TV cable or subscription companies for resale or rental are exempt from sales tax. Purchases of other property or supplies furnished the customer or used by the cable company in rendering the service are taxable at the regular retail rate of tax.

301 (Reserved)

Reporting Requirements

400 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

401 (Reserved)

Sub Part 07 Manufacturing and Production

Chapter 01 Producers of Sand, Gravel, Dirt or Other Mineral or Natural Resource Products

100 Persons engaging in the business of producing sand, gravel, dirt, limestone, reef shells, coal, lignite or other natural or mineral resource products (except timber, oil, natural gas and salt taxable under separate statutes) are liable for taxes as follows:

1. Sales to nonexempt consumers within this State are taxable at the regular retail rate of sales tax levied by Section 27-65-17. Such tax is to be added to the full sales price, including but not limited to delivery or freight charges collected from the customer.
2. Wholesale sales, exempt sales, products used by the producer as a component material a qualified contract (provided by Section 27-65-21), products used by the producer as raw material of a manufactured product, or products delivered outside this State are subject to a production tax, levied by Section 27-65-15, equal to the regular retail rate of tax on the gross proceeds of sales or value when converted to use, whichever is greater. Production tax on sand, gravel, dirt, clay and limestone, however, is limited to five cents (5¢) per ton. Unlike the sales taxes levied on retail sales described in Number 1 above, delivery charges are not to be included when calculating the taxable base or "value" for production tax purposes. When the sales price and delivery charges are so commingled as to prevent an accurate determination of the sales price, the Commissioner may use an apportionment formula to establish the sales price.

101 "Value" is determined by adding all costs, expenses, royalties and a reasonable profit of the product at the time the product is converted to use. Value must include depletion or

royalties, direct labor and energy, depreciation of equipment, apportioned administrative expenses, reclamation of land and any other cost incurred in producing and processing the product for use. In no instance shall value be less than the gross proceeds of sales.

- 102 The producer is the person mining, quarrying or otherwise producing or causing to be produced the products listed above and the tax shall be paid by such producer. The tax is due at the time:
1. Sale takes place.
 2. Product is loaded for shipment outside this State.
 3. If not for sale, at the time the product is converted to use.
- 103 Contractors, who conduct mining operations in which natural resource products of commercial value are produced for use as a component material of construction contracts, are engaged in the business of mining or producing such products and are liable for tax at the appropriate rate. However, grading, excavating, landscaping, ditching or dredging activities conducted at the project site which have the effect of moving soil from one point to another to create a road, dam, canal, etc., are not taxable production or severance.
- 104 Purchases of gravel crushers by producers are taxable at the special 1½% rate of sales or use tax. Purchases of all other equipment used in the production of natural resource products are taxable at the regular retail rate of tax.
- 105 Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 106 Rental or lease of tangible personal property is taxed at the same rates as sales of the same property.
- 107 (Reserved)

Chapter 02 Custom Creosoting and Treating, Planing and Sawing and Custom Meat Processing

- 100 Gross income received from custom creosoting and treating, custom planing, custom sawing and custom meat processing is taxable at the regular retail rate of sales tax. Gross taxable income includes all charges connected with the service. Services performed for a licensed retailer upon merchandise for resale in the regular line of his business are exempt from sales tax. Charges for custom creosoting and treating of track materials and the sale of track materials to a railroad whose rates are fixed by the I.C.C. are taxable at the 3% special rate of tax.
- 101 Purchases of raw materials which will become a component part of the product being processed are exempt. Purchases of electric power or other fuels used directly in custom processing are taxable at a 1 ½% special rate of sales or use tax. Purchases of manufacturing machinery or machine parts to be used directly and exclusively in custom

processing are taxable at the 1 ½% special rate. All other purchases are subject to regular retail sales or use taxes.

- 102 Rental or lease of machinery and other tangible personal property is taxed at the same rates as sales of the same property.
- 103 Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 104 (Reserved)

Chapter 03 Manufacturers and Custom Processors

Tax Rate

- 100 Mississippi sales tax law provides for a reduced rate and certain exemptions for manufacturers and custom processors. The reduced rate of 1 ½% applies to the sale or rental of manufacturing machinery and machine parts which are used directly in the manufacturing process. Manufacturers and custom processors are also eligible for the reduced rate on purchases of electricity and natural gas used in the manufacturing process. Sales of raw materials, catalysts, processing chemicals, welding gases or other industrial gases (except natural gas) to a manufacturer for use directly in manufacturing or processing a product for sale or rental are exempt.
- 101 (Reserved)
- 200 Manufacturer, Custom Processor and Manufacturing Activities
- 201 A "manufacturer" is defined as a person who is exclusively or predominately engaged in the business of fabricating, compounding or creating from his own raw materials or ingredients any tangible personal property by the application of skill and labor, either by hand or through the use of machinery, for sale or rental through the regular channels of trade.
- 202 "Manufacturing" refines, improves, changes the condition of raw materials or converts the form of the materials into new, different or more useful property and includes the fabrication or production of special made-to-order articles and the generation of electricity. A person who is engaged in manufacturing and non-manufacturing activities may be classified as a manufacturer as to his manufacturing activities that are operated as a separate business or division.
- 203 Persons performing work such as logging operations, cooking and serving food by a restaurant, washing and screening sand and gravel, mining, severing or otherwise producing natural resource products, transporting raw materials from place of production to point of processing, etc., are not considered manufacturers. Neither are persons

performing such activities as hatching and raising baby chicks for market considered to be manufacturers.

- 204 A "remanufacturer" is defined as a person who is engaged in performing activities of an industrial or commercial nature wherein labor or skill is applied by hand or machinery, to materials, a portion of which may belong to the customer, so that rebuilt articles of tangible personal property, comparable in quality to new articles of the same property, are created, a majority of the value of which is produced by the remanufacturing activity.
- 205 A "custom processor" is defined as any person who performs a manufacturing or remanufacturing service done or made to order upon the property of the customer and includes laundering, cleaning and pressing.
- 206 Remanufacturing or custom processing does not include repairs or maintenance which restores the property to a workable condition and which does not constitute a majority of the value of the property repaired.
- 207 "Manufacturing plant" means the real and personal property owned or leased by a manufacturer which is assembled and used at a fixed location to perform activities defined as manufacturing.
- 208 "Manufacturing" begins at the point where the raw materials are transferred to the actual processing operation from storage or stock pile at the plant, and ends when the manufactured product leaves the assembly line for storage or shipment, and includes the processing of the by-product or waste materials to avoid air and water pollution.
- 209 (Reserved)
- 300 Manufacturing Machinery
- 301 "Manufacturing machinery" is that machinery used within a plant exclusively and directly in manufacturing a commodity for sale, rental or in custom processing for a fee. Motorized units and other conveyor systems serving a specific function within the line of process at the plant site will be classed as manufacturing machinery, as well as equipment used in the processing of waste materials to avoid air and water pollution.
- 302 Purchases of pollution control equipment by manufacturers and custom processors are exempt from sales or use tax. The term "pollution control equipment" means equipment, devices, machinery or systems used exclusively and directly to prevent, control, monitor or reduce air, water or ground water pollution, or solid or hazardous waste as required by federal or state law or regulation. Although the main use of the equipment must be pollution control, the incidental use for other purposes would not result in the exemption being disallowed.
- 303 The taxpayer will be required to substantiate that any equipment purchased for purposes of pollution control does qualify for the exemption. The taxpayer must provide

certification from a professional engineer that the purchases do meet the requirements of the exemption with regard to the prevention, control, monitoring, or reduction of air, water or ground water pollution or solid or hazardous waste. The certification must provide a list of the purchases and a description of the use of such purchases.

- 304 Replacement and/or repair parts for pollution control equipment are exempt from tax if the initial purchase of the equipment to be repaired or refurbished was or would have been exempt. The exemption would also apply to the repair labor.
- 305 Manufacturing machinery does not include machinery for use in the severance of timber, sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, maintenance or repair machinery, research laboratory machinery, storage facilities warehouse machinery, equipment for protection of the plant or comfort of the personnel or other equipment and supplies of like character. Equipment used in the treatment of water by a manufacturer qualifies for the reduced rate of tax. Equipment used in the treatment of water by a public or private water system or sewage system is not classified as manufacturing machinery and does not qualify for the reduced rate of tax. The term "manufacturing machinery" does not include foundations or materials for their construction, nor does it include portable equipment that is not assembled and used at a fixed location.
- 306 "Machine parts" are component parts of manufacturing machinery and do not include parts for service equipment, non-manufacturing machinery, fuels, lubricants, paints or tools for maintenance.
- 307 (Reserved)
- 400 Tax Rates for Sales and Purchases
- 401 Machinery, tools or repair parts or replacements, fuel or supplies used directly in manufacturing, converting or repairing ships of three thousand (3,000) tons load displacement and over are exempt from sales or use tax. Office and plant supplies or other equipment not directly used on the ship being built, converted or repaired are subject to the regular retail rate of tax.
- 402 Exempt sales by manufacturers include sales of component materials to contractors with a valid material purchase certificate number, sales to other manufacturers for further processing, sales to licensed dealers or retailers for resale through the regular course of business, or sales to exempt customers (city, governmental agencies, etc.). Sales of manufacturing machinery or machine parts to other manufacturers are taxable at the special 1 ½% rate of sales tax. Sales to consumers or users are subject to the regular retail rate of tax.
- 403 Purchases by manufacturers of raw materials which become a component part of the finished product, containers for sale with the finished product, or catalysts, chemicals or gases used directly in processing (except natural gas or items used as a fuel) are exempt

from sales or use tax. Purchases of electric power or other fuel and machinery or machine parts used directly in the manufacturing process are taxable at the special 1 ½% rate of sales or use tax. Purchases of all other equipment and supplies (furniture, fixtures, cleaning materials, etc.) are taxable at the regular retail rate of tax.

- 404 Delivery charges are subject to sales tax when billed by vendor even though such amounts are separately stated on the seller's invoice apart from the sales price of the property.
- 405 Freight charges are subject to use tax irrespective of method billed or paid.
- 406 Owners or other persons receiving benefit from use of tangible personal property in this State are liable for use tax on such property.
- 407 Charges for labor on repairs rendered at out-of-state locations are exempt where specifically identifiable.
- 408 Rental or lease of machinery and other tangible personal property by a manufacturer is taxed at the same rates as sales of the same property except manufacturing machinery rented to a manufacturer or custom processor for use in the manufacture of wood containers for sale is exempt from tax.
- 409 Adequate records must be maintained to substantiate tax classification of sales and purchases.
- 410 (Reserved)
- 500 Methods of Reporting and Paying of Sales and Use tax
- 501 All manufacturers and custom processors, with certain exceptions, are required to obtain a Direct Pay Permit for purposes of reporting and paying to the State Tax Commission the sales and use tax applicable to purchases or rentals of tangible personal property, utilities, with the exception of telecommunications, and services in lieu of payment of the tax to the vendor. If the permit holder continues to remit sales tax to the vendor rather than directly to the state, the permit holder will be required to contact the vendor for a credit or refund of any overpayment resulting from this practice. This will be required in all instances, even if the overpayment is discovered during a sales or use tax audit where there will be an assessment of additional tax made. No refunds or overpayments will be allowed beyond the Statute of Limitations as provided for in Section 27-65-42, Mississippi Code of 1972. Manufacturers must file a use tax report covering all sales and use tax due on purchases and a sales tax report covering all sales to consumers.
- 502 (Reserved)

Sub Part 08 Agriculture

Chapter 01 Florists and Nurserymen

Sales

- 100 Retail sales of flowers, potted plants, shrubbery, nursery stock, wreaths, bouquets and similar items and rental of tangible personal property by florists or nurserymen are taxable at the regular retail rate of tax.
- 101 When a nurseryman, florist or other person makes retail sales of shrubbery and similar items, and as a part of the transaction agrees to transplant them on the land of the purchaser for a lump sum, the tax applies to the total charge therefore, including those cases where installation is billed separately. The service of landscaping is taxable at the regular retail rate of tax.
- 102 Sales of livestock feed, poultry feed, fish feed, seed, vegetable seedlings and fertilizer to anyone are exempt from sales tax. Sales of defoliant, insecticides, fungicides, and herbicides are exempt when they are to be used in growing agricultural and forestry products for market. When sold for use on lawns or home gardens, such sales are taxed at the regular retail rate of tax.
- 103 Where florists sell through a telecommunication delivery association, the following rules will apply:
1. On all orders taken by a Mississippi florist and communicated to a second florist for delivery, the florist accepting the order is liable for sales tax on the amount collected from the customer.
 2. In cases where a Mississippi florist received instructions from another florist for delivery, the florist receiving such instructions is not liable for sales tax on receipts from the transaction.
 3. Charges for telecommunicated messages are exempt when billed separately to the customer.
- 104 (Reserved)

Purchases

- 200 Sales of electricity, gas and other fuels to commercial horticulturists for use on a farm or in a greenhouse for growing vegetables or ornamental plants are taxable at the 1 ½% special rate of tax. Such sales to non-producers selling vegetables and cut flowers are taxable at the regular retail rate of tax.
- 201 Purchases by florists and nurserymen of supplies and equipment, such as tools, machinery, refrigeration equipment, delivery equipment, etc., for use or consumption in the trade are taxable at the regular retail rate of tax. Purchases by licensed florists and nurserymen of merchandise for resale or rental in the regular course of business are exempt from sales or use tax.

202 (Reserved)

Reporting Requirements

300 Adequate records must be maintained to substantiate tax classifications of sales or purchases.

301 (Reserved)

Chapter 02 Agricultural

100 Definitions

1. "Farm Tractor"--For the purpose of this regulation is limited to self-propelled equipment which performs no farm function within itself other than to move, draw or furnish power to other implements which may be attached. The term "farm tractor" does not include self-powered units, which perform specialized functions such as combines, cotton pickers, hay balers, sprayers, dusters and stationary power units.
2. "Farm Implement"--Means a complete unit that performs a specialized mechanical function and which is identifiable as a specific piece of equipment that is ordinary and customarily used on a farm. This term does not include replacement parts or tools. The trade term "whole goods" is not synonymous with the tax term "farm implements".
3. "Farmer"--Means an individual or company, who grows agricultural products for market.
4. "Agricultural products" shall include field crops, truck and horticultural products, livestock and livestock products, poultry and poultry products and any other product of the soil or water produced on a commercial scale for market.

101 Tax Rates

1. Sales of farm tractors to farmers for agricultural purposes are taxable at the special rate of 1%. Sales of tractors to anyone other than a farmer are taxable at the regular retail rate of tax.
2. The sales of farm implements to farmers for use directly in the production of poultry, ratite, domesticated fish as defined in Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes when used on the farm are subject to the special rate of 3%.
3. The 3% rate of tax also applies to sales of all equipment used in logging, pulpwood operations or tree farming which is either self-propelled or which is mounted so that it is permanently attached to other equipment which is self-propelled or permanently attached to other equipment drawn by a vehicle which is self-propelled.
4. Sales of aerators to domestic fish farmers for use in the raising of domesticated fish as defined in Section 69-7-501, Mississippi Code of 1972, are taxed at the special 3% rate.
5. Sales of three wheelers, four wheelers or other all terrain vehicles are taxable at the regular retail rate unless the unit has a power takeoff and such power take-off is used

to power an attached piece of farm machinery and is used exclusively for agricultural purposes. If the unit meets these requirements and is approved by the Commissioner, then it will be subject to tax as a self-propelled farm implement.

6. All purchases of tools, supplies, machinery and equipment which are bought for use in operation of farm implement businesses and not for resale, or which do not become an integral part of equipment being repaired are taxable at the regular rate of sales or use tax.
7. All purchases of farm machinery, parts and other merchandise for resale are exempt from sales or use tax.
8. The following are intended as examples only of items sold to farmers that are not subject to the special reduced rate of tax:
 - a. Garden Tractor
 - b. Rotary Tiller
 - c. Power Saw
 - d. Lawn Mower
 - e. String Trimmer
 - f. Track Assembly
 - g. Tractor Cab
 - h. Dual Wheels
 - i. Tractor Front Weights
 - j. Grain Storage Bin
 - k. Tractor Fuel Tank
 - l. Hand Tools
 - m. Tractor Rims
 - n. Manual Posthole Digger
 - o. Trailers for Highway use

102 Trade-ins

1. When a trade-in is taken as part payment, the tax applies on the difference received between the selling price and the amount allowed for a trade-in. A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale.
2. When a sale is made involving different rates of tax, the amount allowed for a trade-in should be deducted from the selling price of property taxed at the same rate as the trade-in item. For example: a dealer sells a farm tractor and attached four-row cultivator for \$3,500. The sale price of the tractor of \$2,500 is taxable at the special 1% rate, and the cultivator price of \$1,000 is taxable at the special 3% rate. He accepts a tractor as a trade-in and allows \$400 as part payment. The \$400 allowance must be deducted from the \$2,500 tractor sale rather than from the \$1,000 cultivator sale.
3. When a 3% item such as a combine is traded as part payment on a tractor, the net difference is taxable at the special 1% rate and the subsequent sale of the combine is taxable at the special 3% rate.

- 103 Warranties sales. Sales under a warranty agreement with the manufacturer are exempt on that part charged to the factory. Any part of the charge made to the customer is taxable at the regular retail rate.
- 104 Internal sales.
1. Sales of parts and labor that are necessary to repair farm equipment in inventory are exempt, since the tax will apply on the sale of the repaired equipment.
 2. Sales tax applies on finance charges that are added when a dealer carries his own paper.
- 105 Repossession. Repossession shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported. The subsequent sale of the repossessed item will be taxable on the same basis as the sale of new merchandise.
- 106 Exemptions
1. Sales of seed, vegetable seedlings, livestock feed, poultry feed, fish feed and fertilizer are exempt when sold to anyone and in any amount.
 2. "Livestock, fish and poultry feed" includes hay, silage, beet or citrus pulp, cotton seed hulls, grain, shorts, chops, bran, mash, cottonseed meal or cake, black strap molasses, stock salt (but not table salt), oyster shells, grit and any other feed additive that stimulates growth. Sales of food for dogs, cats and other pets are taxable at the regular retail rate of tax.
 3. Sales of defoliants, insecticides, fungicides, herbicides and baby chicks are exempt when they are to be used in growing agricultural and forestry products for market. When sold for use on lawns or home gardens, such retail sales are taxed at the regular retail rate.
 4. Sales of bagging and ties for baling cotton, hay baling wire and twine, boxes, bags and cans are exempt from tax when made to persons for use in growing or preparing agricultural products for market when possession thereof passes to the customer at the time of sale of the product contained therein.
 5. A sale of ingredients to a manufacturer of livestock or poultry feed for sale is exempt.
 6. Sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock, and poultry by whomever sold is exempt. Such exemption shall be in addition to the exemption provided for feed for fish, livestock, and poultry.
- 107 Cooperative Associations
1. Are liable for sales tax on the same basis as other taxpayers, except that sales of agricultural products produced by members that have not been subjected to any manufacturing process are exempt. Sales of ice cream, pasteurized milk, butter and the like are therefore taxable at the regular retail rate of tax.
 2. Sales tax also applies on gross income from compressing and storing cotton, custom meat processing and other services as listed under Section 27-65-23.

3. Purchases by agricultural cooperatives for their own use are taxable at the regular retail rate of sales or use tax. Purchases of merchandise for resale by licensed retail agricultural cooperatives are exempt from sales or use tax. Purchases of manufacturing or processing machinery and machine parts for use in manufacturing a commodity for sale or rental are taxable at the 1 ½ % special rate of tax.

108 Cotton Gins

1. The 15 cent per bale tax on cotton gins stands repealed and is longer imposed, effective July 1, 1997.
2. Sales and Barter. The exchange of cottonseed meal and hulls for cottonseed is considered an exempt sale of livestock feed. Sales of any other property, unless specifically exempt, are taxable at the regular retail rate of tax.
3. Purchases. Sales or purchases of machinery and machine parts which are to be used directly in the ginning process are taxable at the special 1 ½ % rate of tax. Forklift trucks used directly in the ginning process are considered to be manufacturing machinery. Charges for electric power or other fuels for operation of cotton gins are taxable at the special industrial rate of 1 ½ %. Bagging and ties for baling cotton are exempt from sales or use tax. Other purchases of materials and services are taxable at the regular retail rate of tax.

109 Cotton Compresses

1. The regular retail rate of sales tax applies on the following income accounts of cotton compresses (only if service is performed at cotton compresses and is not a pass through charge from cotton gins): compression, flat delivery, storage, weighing, lining, sampling, patching, branding or markings handling, cotton sold for charges and insurance. If the insurance charge is shown, then the corresponding insurance expense is a deductible item.
2. The following income accounts are exempt from sales tax: bagging, band, loose cotton and sweepings, patches and financial income such as interest on investments. Charges made directly to agencies of the United States Government or the State of Mississippi for storage of property owned by them may also be excluded from taxable gross income.
3. Purchases of permanent bale tags by cotton compresses are exempt from sales tax. Purchases of marking figures and strips, rivets and twine are likewise exempt when used as bagging and ties. Purchases of electric power, fuel, manufacturing machinery, repairs and parts (band cutters, band slicers, band rollers, lift trucks, riveting machines and other processing machines) used directly in the processing operation are taxable at the special 1 ½ % rate of sales or use tax.
4. Purchases of all other equipment and supplies (building materials, car door openers, car loaders, conveyors, cotton hooks, fire extinguishes, hand trucks, janitorial supplies, office supplies, cotton receipts, sampling machines, scales, trailers, oil, graphite, etc.) are taxable at the regular retail rate of sales or use tax.

- 110 Rentals. Rental or lease of machinery and other tangible personal property is taxed at the same rates as sales of the same property.

111 Records. Adequate records must be maintained to substantiate tax classifications of sales and Purchases.

112 (Reserved)

Sub Part 09 Food and Beverage

Chapter 01 Soft Drinks

100 "Soft Drinks" and "Syrup" include:

1. All beverages which are closed or sealed in glass, metal or any other type of container, such as Coca Cola, Sprite, Dr. Pepper, 7-Up, R C Cola, ginger ale, Canada Dry, Shasta, soda water, carbonated water, Capri Sun, Gator Aid, Hi C, Hawaiian Punch, limeade, lemonade, orangeade, artificial fruit juice, tea, chocolate drink and similar items.
2. Syrup of Coca Cola, Pepsi Cola, Chocolate, Dr. Pepper, Tab and other syrup preparations for use in making soft drinks by the seller.

101 Sales to consumers are retail sales taxable at the regular retail rate of tax. No tax is due on bottle deposits.

102 Soft drinks and syrup withdrawn by a manufacturer for sale at retail and food and drink withdrawn by a manufacturer or wholesaler to be sold through full service vending machines are defined as wholesale sales.

103 "Value" is determined by adding all costs, expenses and a reasonable profit of the merchandise at the time the merchandise is withdrawn from inventory. Value must include direct labor and energy, apportioned administrative expenses and any other cost incurred in manufacturing the product for sale. In no instance shall value be less than the least selling price of like merchandise.

104 As compensation for timely filing of returns and payment of the tax, a 2% vendor discount may be claimed on retail tax. No discount is authorized on any other wholesale rates of tax.

105 The sale or rental of soft drink vending machines will not be taxed when an offsetting sales or use tax has been paid on the cost of the property by the owner.

106 Sales of soft drinks through vending machines under a "full service sales" agreement are exempt from sales tax. "Full service sales" are those that are made through vending machines in which the vendor places the drinks, takes the money and pays the location owner a space rental fee. Bottlers, wholesalers, distributors, etc. withdrawing soft drinks and syrup from inventory for sale through full service vending machines must remit 8% wholesale tax on total value when placed into the vending machine for sale. The gross proceeds of retail sales made through such vending machines are exempt from sales tax. The tax liability accrues to the wholesaler at the time of withdrawal and should be

remitted to the State with the same report and in the same manner as any other sales tax liability.

- 107 Purchases by bottlers of raw materials (carbon dioxide gas, syrups, acids, flavoring, water softeners) which become components of drinks are exempt from sales or use tax. Purchases of containers, packaging and shipping materials to accompany goods sold (bottles, cans, crowns, cartons, cases) are likewise exempt from sales and use tax. Electric power or other fuel, bottling machinery and machinery parts used directly in the bottling process are taxable at the special 1½% rate of tax. Purchases of cleaning materials and supplies (acid for cleaning soakers, anhydrous ammonia and refrigerants, calcium chloride, caustic soda, soaps, sulfuric acid, chlorine and disinfectants, stationery, etc.) are taxable at the regular retail rate of tax. Purchases of all other equipment and supplies (advertising and sales promotion materials, signs, case conveyors, coolers and parts, hand trucks, lift trucks, skids, uniforms, vending machines etc.) are likewise taxable at the regular retail rate of tax.
- 108 Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 109 Rental or lease of tangible personal property to bottlers is taxed at the same rates as sales of the same property.
- 110 Use tax is payable monthly directly to the State Tax Commission, if not collected by the seller. In computing the use tax liability, freight charges must be added to the cost of the property. The taxpayer discount applies for timely payments.
- 111 (Reserved)

Chapter 02 Beverage and Food Businesses

- 100 The gross proceeds of sales by restaurants, cafes, cafeterias, snack bars, drive-ins, beer parlors, lounges, night clubs, concessions or other vendors of beverages and food products are taxable at the regular retail rate of tax. Credit for the Mississippi wholesale tax paid on purchases of beer and alcoholic beverages may be deducted from the retail tax liability.
- 101 Taxable Gross Income Includes Receipts From:
1. Admissions, minimum and cover charges for entertainment
 2. Sales of tangible personal property
 3. Service charges
 4. Vending machine sales (except full service vending machines)
- 102 Gratuities or "tips" specifically added as such on the ticket to the cost of the meal, with the entire proceeds of indicated gratuity going to the employee of the restaurant, shall be considered in the same light as gratuities paid directly to the employee and is not considered to be taxable income.

- 103 The value of employee meals and merchandise withdrawn from stock shall be included in gross proceeds of sales taxable at the regular retail rate.
- 104 Food service companies who operate restaurants or cafeterias are to include any underwriting, management or other fees paid by the client. Clients, who underwrite or discount meals to their employees and for whom the food service company serves as an agent for food service operations, may obtain a business license for the food service operation and pay the regular retail sales tax on the greater of (a) the meal charges to employees or (b) the cost to the employer of all purchases utilized in the food service operation, with employer costs for food preparation or food service management being expressly excluded from the computation of purchases. This sales tax treatment shall apply regardless of who is the food service operator as long as an agency relationship exists between the client/employers and the food service operator.
- 105 Food sold to schools or students as regular student meals is exempt from sales tax. Food served at banquets and luncheons for student groups in lieu of individual meals is exempt from sales tax. Food sold by or through school cafeterias and dining halls to non-students such as faculty members, employees, visitors and the public is subject to sales tax. All sales to students and non-students, including meals, by or through campus canteens, soda fountains, dairy bars and similar places of business are taxable.
- 106 Purchases of equipment, fixtures, supplies and advertising materials that are used or consumed in the operation of the business are taxable at the regular retail rate of sales or use tax. Examples would be: soap, washroom supplies, cleaning materials, etc. as well as reusable napkins or dishes.
- 107 Purchases of merchandise which become a part of products resold are exempt from sales tax. Examples would be: salt, pepper, flour, shortening, cooking oil, etc.
- 108 Purchases of non-reusable products such as paper or plastic napkins, plates, cups, knives, forks, spoons, wrapping paper, boxes, etc. which accompany food or beverage products sold are exempt from sales tax.
- 109 Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 110 (Reserved)

Chapter 03 Ice Sales and Ice Manufacturers

Sales

- 100 The gross proceeds of sales of ice to the consumer trade is taxable at the regular retail rate of sales tax. Sales of ice made to a licensed retailer for resale are wholesale sales and not subject to sales tax.

- 101 Sales of ice as a refrigerant to persons operating grocery stores, service stations, hotels (except hotel restaurants), creameries, beer parlors, to railroad and trucking companies for the purpose of icing interstate or intrastate shipments, or sales to industrial users are considered as sales for consumption and are taxable at the regular retail rate.
- 102 Sales of ice to commercial fishermen purchased for use in the preservation of seafood are exempt from sales tax.
- 103 Sales of ice to manufacturers or processors for use in packing a product for preservation or shipment or when used directly in processing are exempt, for example, ice used by meat packers in making sausage or in processing chickens or by a bakery in making bread. Sales of ice to producers for use in the refrigeration of vegetables for market are also exempt.
- 104 Sales of other tangible personal property by ice plants such as ice boxes, fruits, vegetables, produce or any other commodities are taxable at the regular retail rate with no deductions allowed for delivery charges or expenses. Sales of these items to licensed retailers for resale are wholesale sales and are not subject to the sales tax.
- 105 Sales of ice vending machines, ice makers and other similar equipment to cafes, hotels, motels, service stations, etc., are taxable at the regular retail rate of sales or use tax.
- 106 Charges for storing the customers' property are taxable at the regular retail rate.
- 107 Adequate records must be maintained by ice manufacturers to substantiate any claims for exemption; otherwise, the regular retail rate of tax will apply.
- 108 (Reserved)

Purchases

- 200 Purchases by ice manufacturers of shipping materials (bags, twine, etc.) to accompany goods sold where possession passes to the customer are exempt from sales or use tax. Raw materials (water) and processing chemicals (ammonia) used in manufacturing ice are likewise exempt from tax. Purchases of electrical power or other fuels and manufacturing machinery or machine parts used directly in the manufacturing process are taxable at the special 1½% rate of tax. Purchases of all other equipment and supplies (ice picks, hooks, delivery bags not sold with ice, etc) are taxable at the regular retail rate of tax.
- 201 Rental or lease by ice manufacturers of tangible personal property is taxed at the same rates as sales of the same property.
- 202 (Reserved)

Chapter 04 Milk Products

Sales

- 100 Sales of milk or milk products to a consumer are taxable at the regular retail rate of tax.
- 101 The following types of sales are exempt from sales tax:
1. Sales of raw milk, skimmed milk or cream by a producer before the product are subjected to any other process. However, if such products are sold through an established store, sales tax applies.
 2. Sales of raw milk, skimmed milk or cream by an agricultural cooperative, hen such products are produced by members thereof, and before they are subjected to any other process.
 3. Sales to licensed dealers or retailers for resale or to manufacturers for further processing.
- 102 (Reserved)

Purchases by Producers, Pasteurizers and Manufacturers

- 200 Purchases by Producers, Pasteurizers and Manufacturers. Producers are liable for regular retail sales or use tax on the purchase price of all equipment, machines and supplies except on milk bottles, cartons, wax for cartons and caps which are exempt as containers for marketing agricultural products. Mechanical milking machines, milk tanks and coolers are taxed at the 3% special rate of tax. All other taxable items are taxed at the regular retail rate.
- 201 Producers who pasteurize milk or manufacturers of milk products are exempt on purchases of containers that will be sold with the milk or manufactured product. Purchases of manufacturing machinery or parts that will be used directly in manufacturing or processing milk products for sale are subject to the 1 ½% special rate of sales or use tax. Purchases of electric power or other fuel used in manufacturing or processing milk products for sale are likewise subject to the 1 ½% special rate of sales or use tax. All other purchases of equipment, machinery or supplies are subject to the regular retail rate of sales or use tax.
- 202 Rental or lease of machinery and other tangible personal property is taxed at the same rate as sales of the same property.
- 203 (Reserved)

Records

- 300 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

301 (Reserved)

Chapter 05 Bakeries

Sales

- 100 Bakeries doing primarily a wholesale business are considered as manufacturers. Bakery activities carried on by a retailer in connection with a cafe, delicatessen or pastry shop, are not in this manufacturing class, but are subject to the tax as applicable to food and beverage business.
- 101 Sales by bakeries to consumers are retail transactions, taxable at the regular retail rate of tax. Sales to other manufacturers, wholesalers or licensed retailers for resale are not subject to sales tax.
- 102 All bakeries operating within this State are required to keep adequate sales invoices or route books and records of all sales, indicating the name and address of the purchaser, the kind of merchandise, amount of the sale, and the date of the transaction in order to substantiate wholesale and exempt sales.
- 103 (Reserved)

Purchases

- 200 Sales of manufacturing machinery or machine parts to bakeries for use directly and exclusively in manufacturing bakery products are taxable at the 1½% special rate of tax. Sales of raw materials and packaging material used to package bakery products for sale are exempt from tax. Sales of electric power or other fuels for plant use only are subject to a 1½% special rate of sales tax.
- 201 Sales of other supplies and equipment to a baker for use and consumption, such as the following, are taxable at the regular retail rate of sales or use tax:
1. Advertising materials and signs
 2. Bread trays
 3. Display equipment
 4. Fans and ventilating equipment
 5. Furniture and fixtures
 6. Garbage disposal equipment
 7. Janitorial supplies and equipment
 8. Office supplies and equipment
 9. Shelves and buns
 10. Trade books
 11. Uniforms, aprons, caps, etc.
 12. Utensil racks
 13. Vending carts and trucks
 14. Washroom supplies

202 Rental or lease of machinery or other tangible personal property is taxed at the same rates as sales of the same property.

203 (Reserved)

Sub Part 10 Construction and Oil Field

Chapter 01 Construction Contractors

Definitions

100 "Prime Contractor" - For purposes of this regulation the terms "contractor and "prime contractor" are construed to mean a person entering into an agreement, either verbal or written, with the owner of a project to perform such work as is described in the following paragraphs. A person may not contract with himself or a partnership in which he is a partner.

101 Subcontractor - A subcontractor is construed to mean a person entering into an agreement with a prime contractor or other subcontractor to perform work required under the prime contract.

102 Management Contracts - A person entering into an agreement on a fee basis is not considered a prime contractor when such person acts as a liaison between the owner of the project and the various contractors who are hired and paid directly by the owner.

103 (Reserved)

Qualification and Payment of Tax

200 Qualification and Payment of Tax. A contractor, other than an oil or a gas well driller, taxable under Section 27-65-21 on a specified contract exceeding \$10,000, shall make application to the Commissioner for a Material Purchase Certificate to identify the specific contract before work is begun. (See "Material Purchase Certificates and Component Materials".) Contracts for residential construction are not taxable under Section 27-65-21. (See "Residential Construction".)

201 The contractor's tax, together with any use tax due, must be paid before work is begun on any contract exceeding \$75,000 unless a surety bond is filed with the State Tax Commission for these taxes. Bond forms are made available on request. (See "Bond Requirements".)

202 On taxable contracts of \$75,000 or less, or when a bond is filed, the tax must be paid on a monthly basis as compensation is received. Any use tax due on equipment shall be payable on or before the 20th day of the month following the month in which the property is brought into Mississippi.

- 203 Persons or firms without a permanent place of business within Mississippi, are required to qualify and pay any use tax and the 3½% contractor's tax due on the total contract amount before work is begun unless a surety bond is filed as provided by Section 27-65-27 in an amount sufficient to cover these taxes.
- 204 Subcontractors who perform work on a qualified prime contract owe no tax on the subcontract price or gross income. However, the subcontractor is liable for the contractor's tax on that portion of the work sublet to him should the prime contractor fail to qualify the contract and pay the amount of tax due.
- 205 The 2% taxpayer discount is not allowed on sales tax imposed and levied by Section 27-65-21 (contractor's tax).
- 206 (Reserved)

Activities Taxed and Application of Rates

- 300 Activities Taxed and Application of Rates. A tax of 3½% is levied on the total contract amount or compensation received from all contracts, except residential construction, that exceed \$10,000 when the work to be performed is constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing or adding to any of the following:
1. Air conditioning system
 2. Bridge
 3. Building
 4. Culvert
 5. Dam
 6. Dock
 7. Drainage or dredging system
 8. Electrical system
 9. Heating system
 10. Highway
 11. Irrigation or water system
 12. Levee or levee system
 13. Oil or gas well
 14. Pipeline
 15. Power plant
 16. Railway
 17. Reservoir
 18. Sewer
 19. Sidewalk
 20. Storage tank
 21. Street
 22. Tower
 23. Transmission line
 24. Water well
 25. Wharf

- 26. Wiring for communication or information systems
- 27. Any other improvement or structure or any part thereof (fences, etc.)

- 301 The tax is levied upon the prime contractor and includes contracts with the United States Government, the State of Mississippi or any political subdivision or any other exempt agency without any deduction whatever for amounts paid to subcontractors, architects, engineers, landscapers or for any other costs or expenses (including the 3½% contractor's tax) incurred by the contractor. Liquidating damages that are withheld by the owner are not to be included in taxable contract receipts. The portion of the total contract price attributable to design or engineering services may be excluded from the contractor's tax for contracts entered into on or after July 1, 1987, where the total contract price for the project exceeds \$100,000,000.
- 302 A person taxable under Section 27-65-23 who performs any of the above activities as a prime contractor for compensation in excess of \$10,000 shall qualify and pay tax as a contractor in lieu of the tax levied by Section 27-65-23. Persons or businesses so taxed under Section 27-65-23 are:
1. Air conditioning installation or repairs;
 2. Electrical work, wiring, all repairs or installations of electrical equipment;
 3. Elevator or escalator installation or repairs;
 4. Grading, excavating, ditching, dredging or landscaping;
 5. Insulating services or repairs;
 6. Plumbing or pipe fitting;
 7. Tin and sheet metal work;
 8. Welding, etc.
- 303 Persons performing any of the above services for contracts of \$10,000 or less owe the regular retail sales tax on gross income. Persons performing contracts of \$10,000 or less which do not include Section 27-65-23 services owe no tax on gross income but are required to pay the regular retail sales or use tax on all taxable purchases.
- 304 Continuous contracts on a project embracing activities taxable under Section 27-65-21 for a definite period of time and a definite amount will be qualified and taxed at 3½% . Otherwise, the determination of a taxable contract will be from purchase orders, work orders or invoices. Purchase orders, work orders or invoices that are a continuation of prior purchase orders, work orders or invoices will be considered one project. Generally a project is in the same, adjacent or adjoining area. Transmission lines (gas, water, sewage, power, telephone, etc.) are considered a project. Amounts included which embrace non-taxable activities (grass cutting, tree trimming, etc.) may be excluded from the taxable amount of the contract. Section 27-65-21 provides for that portion of the contract price or compensation received representing the sale and installation of manufacturing or processing machinery for a manufacturer or a custom processor to be taxed at the special rate of 1½% in lieu of the 3½% rate specified above.
- 305 Individual contracts for construction of several buildings, streets, etc., or parts thereof may be qualifiable as a prime contract despite the fact that the compensation for separate parts

of the project is less than \$10,000. In order to determine whether such contracts are qualifiable, consideration must be given to the activities involved.

- 306 Contracts for the performance of work upon personal property, such as shipbuilding or ship repairing, or activities which consist of demolishing or razing old property or clearing land are not subject to the provisions of Section 27-65-21. However, where land clearing or building razing are incidental activities to the primary purpose of the contract, such as highway or building construction, the total contract is taxable. No separation of incidental activity will be allowed even though it may be subcontracted.
- 307 As of March 27, 1997, contractor's tax will not apply to the contract price or compensation received to restore, repair, or replace a utility distribution or transmission system (electric, gas, water, sewage, telephone, etc.) damaged by an ice storm, hurricane, flood, tornado, wind, earthquake or other natural disaster if the entity performing the restoration, repair or replacement is reimbursed for its cost only.
- 308 (Reserved)

Floating Structures

- 400 Floating Structures. Effective July 1, 1996, a 3½% tax will be levied on the gross proceeds or gross receipts from the sale of any tangible personal property that becomes a component part of the structure or the performance of any construction activity upon any floating structure (not limited to casinos) . These floating structures are normally moored and not normally engaged in the business of transporting people or property. These structures are located within the waters of the State of Mississippi. This tax does not apply to tangible personal property that does not become a component part of the structure. If one contractor is doing both the land based and floating structure construction, this tax may be paid by the contractor, otherwise, the owner of floating structure is responsible for the tax. The owner of a floating structure, subject to the 3½% tax, will be issued a distinctive number similar to an MPC Number.
- 401 The owner will provide this number to the prime contractors and sub-contractors. This will allow the purchase of component materials and parts for use in the construction activities exempt from further sales tax.
- 402 The owner of a floating structure will also be issued a direct pay number. With the use of the MPC number and this direct pay number, tax is accrued on the owner's use tax return and not paid to vendors.
- 403 The contractor will be allowed to qualify those contracts involving both land based and water based structures that cannot be easily separated, as long as the land based portion of the contract is in excess of \$10,000.
- 404 (Reserved)

Material Purchase Certificates and Component Materials

- 500 Material Purchase Certificates and Component Materials. A contractor's Material Purchase Certificate (MPC number) will be issued to a qualified contractor for each contract. The MPC number allows the contractor and his subcontractors to make tax-free purchases of materials and services that become a component part of the structure covered by the MPC number. The MPC number expires upon completion of the contract.
- 501 The contractor and his subcontractors shall provide their suppliers with the MPC number when purchasing component materials. The supplier shall list the MPC number on each sales invoice as a prerequisite to claiming the exemption.
- 502 Component materials are considered all materials that become an integral part of the structure being erected. For personal property to be considered real property, it must be permanently attached to real property. To be considered permanently attached, one or more of the following criteria must be met:
1. The property or equipment must be attached to building walls, floors, and/or ceiling in such way as to require design or structural alterations to the real property to which it is being attached, or
 2. The property could not be removed intact or its removal would result in the alteration or destruction of the structure or property, or
 3. The property must become an independent structure, itself (real property)
 4. And the property must lose its identity as personal property.
- 503 Component materials may include built-in furniture, fixtures, appliances and similar personal property. Free-standing furniture, fixtures, appliances and similar personal property are not considered component materials. The purchase or sales price of such non-component materials is taxed at the regular retail rate and may be excluded from the measure of the contractor's tax.
- 504 Free-standing personal property sold under a contract with either the United States Government, the State of Mississippi or any political subdivision or any other exempt agency, that has been qualified, can be purchased tax free. The contractor must apply to the Tax Commission for a letter granting the authority to purchase free-standing personal property tax free.
- 505 When records and invoices are not kept in compliance with this regulation, sales made to the contractor or subcontractor will be considered retail sales, taxable at the regular retail rate. (Also see "Equipment and Supplies").
- 506 (Reserved)

Bond Requirement

- 600 Bond Requirement. A surety bond must be filed on taxable contracts exceeding \$75,000.00 performed in this State unless the tax is prepaid. Persons or firms without a

permanent place of business within Mississippi, must file a surety bond on any taxable contract in excess of \$10,000, unless the tax is prepaid.

- 601 Such bonds shall be either (a) "job bonds" which guarantee the payment of taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee the payment of taxes resulting from performance of all jobs or activities taxable under Section 27-65-21 begun during a specified period, regardless of the date of completion. The bond must be sufficient to cover the liability for sales, use, income, withholding and motor fuel taxes and must be approved by the Commissioner.
- 602 In the case of prepayment of sales tax where a use, income, withholding or motor fuel tax bond is required, the contractor will be notified after an application for a Material Purchase Certificate has been received.
- 603 When a contractor defaults in the execution of his contract and the bonding company acting as surety for the performance of the contract assumes completion of the contract, the bonding company becomes liable for the payment of the sales, use, income, withholding and motor fuel tax accruing as a result of its activities.
- 604 (Reserved)

Owner Construction

- 700 Owner Construction. A person constructing buildings on property which he owns is not a contractor and is liable for the retail sales or use tax on all materials or services purchased even though the person may enter into a contract to sell the building and lot (real property) before construction is completed.
- 701 (Reserved)

Residential Construction

- 800 Residential Construction. The contract price or compensation received for constructing, building, erecting, repairing, or adding to any building, electrical system, heating system or any other improvement or structure which is used for or primarily in connection with a residence or dwelling place for human beings is excluded from the 3½% contractor's tax provided by Section 27-65-21. Sales of materials and services for use in such construction activities are taxed at the regular retail rate of tax provided by Sections 27-65-17, 27-65-23 and 27-65-5. Such residences shall include homes, apartment buildings, condominiums, mobile homes, summer cottages, fishing and hunting camp buildings and similar buildings, but shall not include hotels, motels, hospitals, nursing or retirement homes, tourist cottages, military barracks, school dormitories, sorority and fraternity houses, or other commercial establishments. A nursing home is any complex that provides any type of assisted living. The caregiver can be either medical or non-medical personnel.

801 (Reserved)

Equipment and Supplies

900 Equipment and Supplies. Purchases by contractors and subcontractors of work equipment, tools, building forms, repair parts for work equipment and similar tangible personal property that do not become a component part of the structure being erected are taxed at the regular retail rate of sales or use tax. When property of this type has been previously used in another state and is imported into this State for use, the use tax is due on the fair market value of the property at the time of importation. At no time shall the value be less than 20% of original cost. Credit for sales or use tax paid to another state in which the property was acquired or used may be taken in computing the amount of use tax due this State. The credit must be computed by applying the rate of sales or use tax paid to another state to the value of the property at the time it enters Mississippi.

901 Owners or other persons receiving benefit from use of tangible property in this State are liable for use tax on such property.

902 Rental or lease of equipment and other tangible personal property is taxed at the same rates as sales of the same property.

903 (Reserved)

Persons or Firms Domiciled Outside the State

1000 Persons or firms domiciled outside the State who perform contracts in Mississippi are construed to be doing business within the State and are subject to the various provisions of the Sales and Use Tax Laws, the Income and Withholding Tax Laws, the Franchise Tax Laws and the Motor Fuel Tax Laws in the same manner as are resident taxpayers.

1001 (Reserved)

Chapter 02 Drilling Contractors (Oil and Gas Wells)

Definitions

100 Definitions. Certain words, terms and phrases used in this regulation have meanings ascribed to them as follows:

1. Interest Well. When the driller owns a portion of the lease and one or more other persons own the remaining portion upon which a well is drilled, such a joint leasehold is known as an "interest well".
2. Ownership Well. When a drilling contractor owns 100% of a lease and drills a well on it, he has no taxable income.
3. Operator. One who holds all or a fraction of the working or operating rights in an oil or gas lease, and is obligated for the costs of production either as a fee owner or under a lease or any other form of contract creating working or operating rights.

4. Bottom-Hole Contribution. Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. The contribution is payable whether the well is productive or nonproductive.
5. Dry-Hole Contribution. Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. Such contribution is payable only in the event the well is found to be nonproductive.
6. Total Contract Price or Compensation Received. Amounts received as compensation for performing a drilling contract, including assignments of dry-hole or bottom-hole contributions and anything else of value. When the kind and amount of compensation received by the contractor is contingent upon production, the compensation received shall be the total compensation receivable in the event the well is a dry-hole.
7. a. Taxable Compensation. In determining "taxable compensation", certain items are deductible from the "compensation received" when the regular retail tax or, if applicable, the contractor's tax (road construction, site preparation, etc.) has been paid by the contractor to the person making the sale or rendering the service and as enumerated below:
 - i. Additives
 - ii. Casing
 - iii. Cement
 - iv. Coring
 - v. Directional Drilling
 - vi. Fishing tool rentals
 - vii. Logging
 - viii. Mud
 - ix. Perforation
 - x. Road Construction
 - xi. Site preparation
 - xii. Testing
 - xiii. Water
- b. No other expenses or cost incurred by the driller in the drilling operation is excludable in determining "taxable compensation".

101 (Reserved)

Qualifications and Payment of Tax

- 200 Qualifications and Payment of Tax. A drilling contractor taxable under Section 27-65-21 on a specified contract exceeding \$10,000 shall qualify with the State Tax Commission to identify the specific contract before work is begun.
- 201 The contractor's tax together with any use tax due must be paid before work is begun on contracts exceeding \$75,000 unless a surety bond is filed with the State Tax Commission for these taxes (Section 27-65-21). (See "Bond Requirement".)
- 202 On taxable contracts of \$75,000 or less, or when a bond is filed, the tax due under Section 27-65-21 must be paid on a monthly basis as compensation is received. Any use tax on

equipment shall be payable on or before the twentieth (20th) day of the month following the month in which the property is brought into Mississippi.

203 The 2% vendor's discount does not apply to the tax levied under Section 27-65-21.

204 (Reserved)

Tax Rates and Activities Taxed

300 Tax Rates and Activities Taxed. A tax of 3½% is levied on the "taxable compensation" received when the contract price exceeds \$10,000 for drilling, re-drilling, directional drilling or working over a gas well, oil well or salt water disposal well. This tax applies also to interest well contracts on the "taxable compensation" received from the other owners. Drilling, re-drilling, directional drilling or working over a gas well, oil well or salt water disposal well performed as sub work for a prime contractor is not subject to tax when the prime contractor has paid the 3½% tax on the total "taxable compensation".

301 Contracts of \$10,000 or less and oil field services involving activities other than those listed in the preceding paragraph are taxed at the regular retail rate of tax on the gross income of the business as provided by Section 27-65-23 of the Sales Tax Law.

302 (Reserved)

Bond Requirement

400 Bond Requirement. A surety bond must be filed on taxable contracts exceeding \$75,000 performed in this state unless the tax is prepaid. Such bonds shall be either (a) "job bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of all jobs or activities taxable under Section 27-65-21 begun during the period specified therein, regardless of the date of completion. The bond must be sufficient to cover the liability for sales, use, income and withholding taxes and must be approved by the Commissioner.

401 (Reserved)

Sales or Use Tax on Purchases

500 Sales or Use Tax on Purchases. Drilling contractors and operators are required to pay retail sales or use tax on the purchase of all equipment, materials or supplies. Material Purchase Certificates are not issued to drilling contractors.

501 Directional drilling is subject to the regular retail rate of tax unless it is performed by the drilling contractor. If the directional drilling is performed by the drilling contractor, it is subject to the contractor's tax as a part of the drilling contract.

- 502 A truck (chassis, motor, etc.) used to haul specialized equipment is taxed at the special 3% rate of sales or use tax and the specialized equipment mounted thereon is taxed at the regular retail rate of tax (example: drilling or workover rigs).
- 503 When property has not been use in another state and is imported into this State for use, the taxable basis is the value of the property at the time of importation. Credit for sales or use tax paid to another state in which the property was acquired or used may be taken in computing the amount of use tax due this State, but such credit must be computed by applying the rate of sales or use tax paid to another state of the value of the property at the time it enters Mississippi.
- 504 Owners or other persons receiving benefit from use of tangible personal property in this State are liable for use tax on such property.
- 505 (Reserved)

Rentals

- 600 Rentals. Rental or lease of equipment and other tangible personal property is taxed at the same rates as sales of the same property. The lessor is primarily liable for this tax but is required to add tax to his invoice and to collect the amount of tax due from the lessee.
- 601 Adequate records must be maintained to substantiate classifications of income and purchases.
- 602 (Reserved)

Chapter 03 Construction Equipment - Dealers

Tax Rates

- 100 Tax Rates. Sales of all construction equipment, attachments, parts, labor and services are taxable at the regular retail rate of sales tax.
- 101 Sales under a warranty agreement with the manufacturer are not taxable on that part charged to the factory. Any part of the charge made to the customer is taxable at the regular retail rate.
- 102 Internal sales of parts and labor that are necessary to repair construction equipment in inventory of the dealers are not taxable because the tax will apply on the sale of the repaired equipment.
- 103 “Sales price” or “purchase price” means the full amount received from the sale of property, including carrying charges when a dealer carries his own paper, delivery charges, manufacturers excise tax and any other additions to the selling price. No

distinction is made between sales of new, used or trade-in equipment for tax purposes, all being taxed on the differences in the sales price and the amount allowed for a trade-in.

104 (Reserved)

Repossessions

200 Repossessions. Repossessions shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported. The subsequent sale of the repossessed item will be taxable on the same basis as the sale of new merchandise.

201 (Reserved)

Rentals

300 Rentals. Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property.

301 Licensed dealers owe no tax on the cost of property withdrawn from inventory for lease or rental. Subsequent sales of property that has been rented or leased are taxed on the full sales price with no deduction allowed as a result of tax paid on rental or lease income.

302 (Reserved)

Out of State Sales

400 Out-of-state-sales. All sales of equipment by Mississippi dealers are presumed to have been made in this State unless the dealer can provide factual evidence that the equipment was delivered to the customer outside of this State for first use in another state.

401 (Reserved)

Use Tax

500 Use Tax. Persons who buy equipment in other states are liable for the payment of a use tax at the same rate and on the same basis as the sales tax, with proper credit allowed for another state's tax.

501 Purchases of property for resale are wholesale sales and exempt from sales or use tax

502 (Reserved)

Chapter 04 Oil Field Services

Levy

100 Every person engaging in the business of performing services in connection with geophysical surveying, exploring, developing, drilling, producing, distributing or testing of oil, gas, water and other mineral resources is liable for the regular retail rate of tax on gross income received except as otherwise provided. This includes persons acting as operators or performing management services for a fee in connection with developing, producing or distributing mineral resources. Consultants, supervisors and engineers whose presence is required at the well site or inside the oil field on a permanent or continuing basis are considered to be engaged in an oil field service and are liable for sales tax. Where the operator owns an interest in a well under his management, he is liable for tax on compensation received from the other owners.

101 (Reserved)

Gross Income

200 Any business which performs taxable services incurs business expenses which of necessity must be recovered through charges for its services. Such expenses include meals and lodging for employees, mileage, equipment rental and supplies such as chemicals, swab cups and explosives which are used or consumed in the performance of services. The term "gross income" includes charges made for recovery of these expenses and are taxable irrespective of the fact that they may be itemized or that the goods or services have borne a retail tax at the time of purchase.

201 Charges for transportation, outside an oil or gas field, in connection with rigging up or rigging down are not includable in taxable receipts. Companies which rig up or down a derrick in connection with hauling said derrick are deemed to be in the transportation business and are subject to tax only on the portion of the service performed in the oil or gas field. Transportation from one location in a field to another location in the same field is considered an oil field service taxable at the regular retail rate of sales tax.

202 Services such as salt water disposal, but not limited thereto, are considered oil field services taxable at the regular retail rate of sales tax on the gross income received from such service. Any transportation charges in connection with such services are considered an expense of performing the service and are not excludable from gross income.

203 "Gross income" from gathering and interpreting data within and without this State may be apportioned between the states if adequate records are maintained. "Gross income" does not include receipts which constitute reimbursement by clients for cost of easements to cross or enter land of property owners for property damage payments. In addition to services ordinarily rendered, the operator of a management company may also act as agent for well owners in arranging for other services. In such cases, the operator is not liable for tax on receipts which represent rebilling to the owners of payments made to vendors by the operator for property purchased and services performed for owners on which the regular retail rate of tax has been paid to the vendors.

- 204 The gross income from oil field services performed in Mississippi is taxable at the regular retail rate of sales tax with the following exceptions:
1. Compensation received from a contract in excess of \$10,000 to drill, redrill or work over an oil well or a gas well is taxable at the 3 1/2% contractor's rate of tax.
 2. No sales tax is due when service is performed for another licensed dealer in the same service.
- 205 Adequate records must be maintained to substantiate exempt sales.
- 206 (Reserved)

Equipment

- 300 Equipment purchases or rentals and purchases of supplies are taxable at the regular retail rate of sales or use tax.
- 301 Manufactured or produced products withdrawn for use or consumption are taxable at the regular retail rate of tax, measured by the cost or value when converted to use. In no instance shall value be less than the selling price of similar products.
- 302 (Reserved)

Sub Part 11 Transportation

Chapter 01 Railroad Companies

- 100 All railroad companies are required to have direct pay permits for purposes of reporting and paying to the Commissioner the sales and use tax applicable to purchases of tangible personal property and services in lieu of payment of the tax to the vendor. The direct pay permit does not relieve the vendor of the liability for tax levied by Sections 27-65-15 (Mining or Producing), 27-65-19 (Public Utilities), 27-65-21 (Contracting, etc.). Railroads will file and pay all tax due on property purchased, used or consumed within the State of Mississippi.
- 101 The following are examples of applicable sales or use tax on purchases by railroad companies:
1. Exempt
 - a. Locomotives and rail rolling stock, including all units that move on rails and materials for their repair.
 - b. Locomotive fuel
 - c. Locomotive water
 2. Regular retail rate
 - a. Supplies and materials for right of way maintenance
 3. Special 3% rate
 - a. Creosoting and treating of track and bridge materials
 - b. Culverts, drainpipes and ballast for use in the roadway

- c. Equipment and materials for use in signals and interlockers
 - d. Ties, piling, timber and lumber, when used in track or track structures.
- 102 Any other purchases will be taxed at the rates provided by law. Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 103 Rental or lease of tangible personal property to railroad companies is taxed at the same rates as sales of the same property.
- 104 (Reserved)

Chapter 02 Automobile, Truck and Truck-Tractor Dealers

- 100 Terms and Definitions
- 101 "Automobiles, trucks and truck-tractors" shall include only vehicles which are commonly known to the trade as such. The term includes motor homes (self-propelled) but does not include mobile homes, campers, trailers, semi-trailers, motorcycles, warehouse trucks, drag lines, golf carts and similar vehicles.
- 102 "Semi-trailer" for tax purposes is one that is attached to and moved by a truck-tractor.
- 103 "Sales price" or "purchase price" for tax purposes means the full amount received from the sale of property, including carrying charges when a dealer carries his own paper, delivery charges, manufacturers excise tax and any other additions to the selling price. The Federal Retailers Excise Tax on truck chassis and bodies and on truck-trailer and semi-trailer chassis and bodies is exempt from sales tax. The Federal Luxury Tax, effective January 1, 1991, is in the form of a Federal Retailers Excise Tax, and is therefore excluded from taxable gross proceeds of sales when computing the Mississippi sales or use tax due on sales of passenger vehicles with a sales price over \$30,000.00. No distinction is made between sales of new, used or trade-in vehicles for sales and use tax purposes, all being taxed on the difference in the sales price and the amount allowed for a trade-in. A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale.
- 104 (Reserved)
- 200 Rate and Application of Tax
- 201 The special rate of tax on sales and rentals of automobiles and trucks with a gross weight of 10,000 lbs. or less is 5%. Truck-tractors and semi-trailers are taxed at the special rate of 3%. Retail sales or rental of other tangible personal property are taxable at the regular retail rate of tax.
- 202 After July 1, 1999, truck-tractors and semi-trailers sold in this state for use in interstate commerce and registered under the international Registration Plan (IRP) or other similar

agreements are taxed on the portion of the retail sales price attributable to its usage in Mississippi. This tax will be collected at the time of registration. A properly executed Notice of Intent to Register under IRP must be maintained in the seller's records, and a copy must be provided to the Motor Vehicle Licensing Bureau of the Mississippi State Tax Commission.

- 203 Special equipment already mounted on a truck, the function of which is to transport persons or property, is taxable at the applicable rate of tax as the truck when sold as a complete unit. If sold separately, the regular retail rate of tax will be applicable. (Example: bus bodies, concrete mixing equipment, tanks for transportation of liquids and the like.)
- 204 Equipment mounted on a vehicle so that it can be transported from place to place for the performance of a special function while stationary is taxable at the regular retail rate of tax whether sold as a complete unit or separately. (Example: seismographic equipment, oil well work-over rigs, cherry pickers and the like.)
- 205 EPAs purchasing automobiles or trucks with a gross weight of 10,000 lbs. or less, are taxed at the reduced rate of 1% plus the additional 2% tax levied by Section 27-65-17, Mississippi Code of 1972.
- 206 Accessories permanently attached to a vehicle at the time of sale, such as overdrive, heater and radio, are taxable at the same rate as that of the vehicle. Accessories that are not permanently attached are taxable at the regular retail rate of tax.
- 207 Sales between licensed new or used car dealers of merchandise (parts & accessories) for resale at retail are exempt from sales tax. Sales of new motor vehicles to used car dealers are taxable. Sales of merchandise to licensed leasing and rental companies for subsequent lease or rental are likewise exempt from sales tax.
- 208 The sales of accessories, equipment, labor, parts and services are taxable at the regular retail rate of tax when sold to a consumer and exempt when sold to other licensed retail dealers for resale. Income received from the repair (labor and parts) of vehicles for another licensed dealer where the vehicle will be placed in stock for sale is exempt.
- 209 Internal sales of parts and labor that are necessary to repair a vehicle in inventory are exempt because the tax will apply on the sale of the repaired vehicle. However, merchandise such as tires for wreckers and similar withdrawals from stock for business use are taxable at the regular retail rate.
- 210 (Reserved)
- 300 Service Contracts
- 301 The sale of a contract to provide for maintenance and/or repairs of a motor vehicle is exempt from sales tax when sold either with the vehicle or separate from the sale of the vehicle. These contracts are known in the industry as either a service contract, extended

warranty or other similar names and are separate from the original new car warranty as provided by the manufacturer. Income received from the subsequent repair work performed by the dealer under the provisions of these contracts is taxed at the regular retail rate of tax.

- 302 The income received and retained by an automobile dealer derived from the sale of maintenance and/or repair agreement to cover work performed at that dealership only, is in reality the prepayment of maintenance and repairs. The income received from such sale is taxed at the regular retail rate of tax as any other automobile repairs.
- 303 (Reserved)
- 400 Wrecker and Towing Service. Charges for wrecker or towing services where no other taxable services (repairs, storage or other similar service) are provided are exempt from sales tax. When wrecker or towing services are provided in connection with other services that are taxable, the total amount is subject to the regular retail rate of tax. The separate invoicing of the wrecker or towing services would not affect the taxability of the charges. The taxability of wrecker and towing services is determined for each instance that includes this service and not for the business as a whole.
- 401 (Reserved)
- 500 Warranty Repairs. Repairs to a vehicle under the original new vehicle manufacturers' warranty where payment or credit is directly from the manufacturer are exempt. Rental cars provided under the new car warranty, either from the dealer's own fleet or through a car rental agency, are considered part of the warranty repair and not subject to sales tax or the motor vehicle rental tax. Any part of the charge for repairs or service billed to or paid by the customer is taxable at the regular retail rate of tax.
- 501 (Reserved)
- 600 Rebates
- 601 A rebate given by the dealer is considered to be a discount deductible from the sales price when shown on the sales invoice and is exempt.
- 602 Rebates made directly by the manufacturer to the purchaser or to the dealer are taxable as a segment of the selling price of the dealer since the gross receipts of the dealer are not reduced by the allowance of rebates in this manner.
- 603 Incentive awards paid to the dealer by the manufacturer which do not affect the selling price to the customer are considered to be a reduction in cost to the dealer and are not taxable.
- 604 (Reserved)

- 700 Cars furnished by Dealers. A vehicle furnished free of charge or at less than an arms-length charge is taxable to the dealer on the value of the vehicle when withdrawn from stock. This includes cars used by owners, salesmen, dealership employees, or any other individual whom the dealership has given a car for use. The value of the vehicle shall be determined by computing the annual lease value of the vehicle based on its fair market value (FMV) as of the first date the auto is made available for personal use. The FMV is determined to be the manufacturers invoice price. This figure should then be used to determine the annual lease value assigned by the Internal Revenue Service in absence of any other method of determination provided by the Commission. Tax at the rate of 5% should be paid on the total lease value of all vehicles provided to individuals for personal use. No credit for tax paid on the use of the vehicle will be allowed against the tax due once the vehicle is sold. The total tax due should be computed on December 31st of each year and reported on the December sales tax return due by January 20th.
- 701 (Reserved)
- 800 Rentals
- 801 Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property.
- 802 Dealers owe no tax on cost of property when withdrawn from inventory for lease or rental. Sales of property that has been rented or leased are taxable on the full sales price with no deduction allowed as a result of tax paid on rental or lease income.
- 803 (Reserved)
- 900 Repossessions
- 901 Repossessions shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported and taxed. The subsequent sale of the repossessed car will be taxable on the same basis as the sale of any other car.
- 902 Repossessions by out-of-state dealers do not cancel or void use tax liabilities which accrue to the purchaser simultaneously with the first use or registration of the vehicle in Mississippi.
- 903 (Reserved)
- 1000 Safety Inspection Fees. Charges for inspection of automobiles as required by the Mississippi Motor Vehicle Safety Inspection Act are exempt from sales tax.
- 1001 (Reserved)

- 1100 Out-of-state Sales. Sales of automobiles, trucks, truck-tractors, semi-trailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles which are exported from this State within forty-eight (48) hours and registered and first used in another state are exempt from sales tax. A properly executed Certificate of Interstate Sale (Form 61-127) must be maintained to substantiate sales of boats, all-terrain cycles or other equipment not required to be registered for highway use.
- 1101 (Reserved)
- 1200 Isolated Casual or Occasional Sales. The 3% rate of sales or use tax is due on motor vehicles purchased by any person, firm or corporation from another person, firm or corporation which is not a licensed dealer. "Motor vehicle" includes private carriers of passengers, school buses, church buses, taxicabs, ambulances, hearses, motorcycles, private carriers of property, and private commercial carriers of property and drays of a gross weight of ten thousand (10,000) pounds or less. Sales or use taxes on such purchases are to be paid to the County Tax Collector at the time the motor vehicle is registered or licensed. Purchases of other non-business motor vehicles or property are not taxable when purchased as isolated, casual or occasional sales.
- 1201 (Reserved)
- 1300 Purchases
- 1301 All purchases of tools, supplies, machinery and equipment which are bought for use in operating the business and not for resale, or which do not become an integral part of vehicles being repaired are taxable at the regular retail rate of sales or use tax. Purchases of vehicles, parts and other merchandise for resale are exempt from sales or use tax.
- 1302 (Reserved)

Records

- 1400 Adequate records must be maintained to substantiate tax classifications on sales and purchases.
- 1401 (Reserved)
- 1500 Use Tax
- 1501 Persons who purchase vehicles, which will be registered and used in this State, from dealers located in other states are liable for the payment of use tax at the same rate and on the same basis as sales tax. The Mississippi use tax is payable to the County Tax Collector if not previously paid to an authorized out-of-state dealer at the time of purchase. Credit for the amount of sales tax paid to the dealer in the other state is allowed against the Mississippi use tax due on all such vehicles except automobiles, motor homes, trucks, truck-tractors and semi-trailers, trailers, boats, travel trailers,

motorcycles and all-terrain cycles. Any tax credit allowed must be evidenced by proof of payment.

1502 Persons who purchase motor vehicles, which are classified as isolated, casual or occasional sales, are liable for the payment of use tax at the same rate and on the same basis as sales tax (see Isolated, Casual or Occasional Sales in this Rule).

1503 (Reserved)

Chapter 03 Aircraft

Rate of Tax

100 Rate of Tax. Retail sales of aircraft are taxable at the special rate of 3%. Retail sales of repair parts and labor are taxable at the regular retail rate of tax.

101 Accessories permanently attached to an aircraft at the time of sale, such as radios, lights, instruments, etc., are taxable at the same rate as that of the aircraft. Accessories sold at a later date are taxed at the regular retail rate.

102 Sales of aircraft, accessories, repair parts and labor to licensed retailers for resale or rental in the regular course of business are exempt from sales or use tax.

103 "Sales price" means the full amount received from the sale of property, including carrying charges when a dealer carries his own paper, delivery charges, manufacturers excise tax and any other additions to the selling price. The Federal Luxury Tax, effective January 1, 1991, is in the form of a Federal Retailers Excise Tax and is therefore excluded from taxable gross proceeds of sales when computing the Mississippi sales and use tax due on sales of aircraft with a sales price over \$250,000.00. No distinction is made between sales of new, used or trade-in property for tax purposes, all being taxed on the difference in the sales price and the amount allowed for a trade-in.

104 A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale in the regular line of business.

105 Sales under a warranty agreement with the manufacturer are not taxable on that part charged to the factory. Any part of the charge made to the customer is taxable at the regular retail rate.

106 (Reserved)

Demonstrations

200 Demonstrations. Aircraft used as demonstrators where the aircraft remains in the dealer's inventory is not subject to sales tax. Supplies or other tangible personal property

withdrawn and used by the dealer for demonstration of aircraft or any other purpose are taxable at the regular retail rate of tax.

201 (Reserved)

Rentals

300 Rentals. Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property. An aircraft is not rented when an instructor accompanies a student for purposes of instruction.

301 Rebilling or "pass through" fuel charges are not considered to be taxable rental income when separately invoiced from the charge for rental or lease. Sales of fuel by lessors are not subject to sales tax. Income from inside or outside storage charges is exempt from sales tax.

302 Dealers owe no tax on cost of property when withdrawn from inventory for lease or rental. Sales of property that has been rented or leased are taxable on the full sales price with no deduction allowed as a result of tax paid on rental or lease income.

303 (Reserved)

Repossessions

400 Repossessions. Repossessions shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported and taxed. The subsequent sale of the repossessed equipment will be taxable on the same basis as the sale of any other property.

401 (Reserved)

Out-of-state Sales

500 Out-of-state Sales. All sales of aircraft by Mississippi dealers are presumed to have been made in this State unless the dealer can provide factual evidence that the aircraft was delivered to the customer outside of this State for first use in another state.

501 (Reserved)

Purchases

600 Purchases. All purchases of tools, supplies, machinery and equipment which are bought for use in operating an aircraft business and not for resale are taxable at the regular retail rate of sales or use tax.

601 (Reserved)

Use Tax

- 700 Use Tax. Persons who buy aircraft from dealers in other states for use in Mississippi are liable for the payment of a use tax at the same rate and on the same basis as sales tax. Credit for the amount of sales tax paid to the dealer in the other state is allowed against the Mississippi use tax due on such purchases. Any tax credit allowed must be evidenced by proof of payment.
- 701 (Reserved)

Records

- 800 Records. Adequate records must be maintained to substantiate tax classifications of sales and purchases.
- 801 (Reserved)

Chapter 04 Boats, Barges, Vessels and Marine Commerce

- 100 Sales of vessels or barges of fifty (50) tons load displacement and over by the manufacturer or builder are exempt. The gross proceeds of sales of dry docks and offshore drilling equipment for use in oil exploitation or production are exempt. The Federal Luxury Tax, effective January 1, 1991, is in the form of a Federal Retailers Excise Tax, and is therefore excluded from taxable gross proceeds of sales when computing the Mississippi sales or use tax due on sales of boats with a sales price over \$100,000.00. Sales of equipment subsequent to original sale and not otherwise exempt are taxable at the regular retail rate.
- 101 Sales to commercial fishermen of commercial fishing boats of over five (5) tons load displacement and not more than (50) tons load displacement as registered with the United States Coast Guard and licensed by the Mississippi Marine Conservation Commission are exempt. Fishing gear with which the boat is permanently equipped is considered part of the boat.
- 102
1. Charter boats which have been licensed and authorized as such by the United States Coast Guard pursuant to 46 CFR 24-26 and 46 CFR 175-187 or
 2. Seafood boats licensed by the Mississippi Marine Conservation Commission for use within and without the territorial waters of Mississippi and:
 - a. subject to the regulations, jurisdiction and authority of the Mississippi Marine Conservation Commission,
 - b. subject to a license or fee imposed by the Mississippi Marine Conservation Commission,
 - c. used in waters of other states and required by such other states to pay a license or fee

shall, upon issuance of such license, be deemed to be in the business of interstate transportation (Section 49-15-15(o)).

- 103 Sales of ice to commercial fishermen purchased for use in the preservation of seafood are exempt from tax.
- 104 Sales of motor fuel are exempt from sales tax. Motor fuel means gasoline, butane, diesel or any other fuel used to propel or power motor vehicles, vessels, barges or stationary engines.
- 105 The gross income from repairs to vessels and barges engaged in foreign trade or interstate transportation are exempt. "Gross income from repairs" means income from the sale of repair or replacement parts as well as income from repair services. Additional equipment and the installation thereof are taxable at the regular retail rate. Repairs to other vessels are taxable.
- 106 Machinery or tools or repair parts therefore or replacements thereof, fuel or supplies used directly in manufacturing, converting or repairing ships of three thousand (3,000) tons load displacement and over are exempt from sales or use tax. Office and plant supplies or other equipment not directly used on the ship being built, converted or repaired are subject to the regular retail rate of tax.
- 107 Sales of petroleum products to vessels or barges for consumption in marine international commerce or interstate transportation businesses are exempt. Geophysical vessels used in the collection of data and/or information while operating in international waters are considered to be in international commerce. Sales of petroleum products, other than motor fuel, to vessels and barges performing seismographic work and operations other than that of a transportation business, such as dredges, oil rig supply boats and pleasure boats, are taxed at the regular retail rate of tax.
- 108 Sales of tangible personal property to persons operating ships in international commerce for use or consumption on board such ships are exempt from sales tax. This exemption shall be limited to cases in which procedures satisfactory to the Commissioner, insuring against use in this State other than on such ships, are established. This exemption does not apply to the purchase of property to be resold within this state.
- 109 Sales of lumber, dunnage, strapping, packing containers and other shipping material sold to ship owners, stevedoring companies or any other person for use in ships engaged in international commerce are exempt from sales tax.
- 110 Sales of property delivered by the seller to the dock side for immediate export to a foreign country are exempt. Copies of purchase orders from or for overseas customers, marine bills of lading or other documentation must be retained by the seller with the sales invoice in support of this exemption.

- 111 Income received from storage and handling of perishable goods by a public storage warehouse is exempt from tax. "Perishable goods" means frozen goods or goods that require refrigeration while stored in a public storage warehouse (example: meat, fish, poultry, vegetables, fruits, etc.). Perishable goods shall also include grain products which require aeration while stored in a public warehouse (example: soybeans, wheat, rice, oats, milo, etc.)
- 112 When the export exemption is claimed for merchandise purchased for a ship's crew, the Chandler must have a purchase order from the ship's captain for each item of property and delivered the property to the ship in the same manner as the other supplies. All sales of personal property to ship's personnel who buy and accept its delivery in person from the seller are taxable at the regular retail rate of tax.
- 113 Stevedoring charges for loading or unloading vessels engaged in foreign or interstate commerce are exempt.
- 114 Sales of machinery, machine parts and/or equipment to an operator or lessee of any structures, facilities and lands acquired and operated or leased pursuant to any of the provisions of Chapter 9, Title 59, Mississippi Code of 1972, which machinery, machine parts and/or equipment is to be located on and used exclusively and directly in the operation of such structures, facilities and lands are taxable at the 11/2% rate of tax.
- 115 Sales of equipment and supplies (hardware, canvas, lines, sheets, paint, clothing, linens, lumber, cleaning materials, etc.) to any boat are taxable at the regular retail rate of tax, unless otherwise exempt.
- 116 (Reserved)

Sub Part 12 Medical

Chapter 01 Optometrists and Ophthalmologists

Professional Services

- 100 Optometrists and ophthalmologists primarily rendering professional services are not construed as retailers by the Sales Tax Law, but are regarded as the users or consumers of all tangible personal property purchased either to be consumed or used by them or delivered to their customers in connection with the professional services rendered. Optometrists and ophthalmologists who manufacture glasses pursuant to their own examinations and prescriptions are also considered the users of all ophthalmic goods and related products purchased and are treated the same as non-manufacturing optometrists or ophthalmologists. Sales to or purchase by optometrists or ophthalmologists, in this instance, are taxable at the regular retail rate of sales or use tax which should be charged and collected by the seller at the time of sale. If the use tax is not charged and collected by the out-of-state seller at the time of sale, the purchaser is required to file a use tax return, Form 72-110, covering the tax applicable to such out-of-state purchases.

101 (Reserved)

Retail Sales

- 200 Optometrists who maintain and operate a retail establishment such as a jewelry store, optical supply house, etc., or who are associated with a retail establishment, are construed as retailers and are liable for a sales tax on their Mississippi sales. Purchases of merchandise by a licensed retailer for resale at retail are exempt from sales or use tax.
- 201 Opticians, optical dispensaries, and optical supply houses, or any other person selling tangible personal property and not primarily rendering professional services as optometrists and ophthalmologists, as outlined in the first paragraph above, are likewise construed as retailers or wholesalers and are required to file Mississippi sales or use tax returns. A licensed retail establishment employing an examiner may exclude the examination charge from the gross proceeds of sales; provided this fee is a separate charge and records are kept to substantiate it.
- 202 (Reserved)

Chapter 02 Hospitals, Infirmaries and Sanatoriums

- 100 Gross income received from the operation of a nursing home, hospital or similar institution is exempt from sales tax. Gross income from rental of tangible personal property or the operation of a drug store, cafeteria, gift shop or other business open to the public is subject to sales tax in the same manner as a similar independent business. Sales of non-prescription drugs and medicines or other property to out-patient or employees are likewise taxable at the regular retail sales tax rate. Sales of prescription drugs (legend drugs) and insulin are exempt from sales tax.
- 101 Home health care agencies, hospices or similar institutions, which operate as a separate legal entity (whether profit or non-profit) and not as a division or department of the exempt entity, are not exempt, and cannot be covered under the exemption provided to an affiliated exempt corporation. These agencies are subject to tax on purchases that are used or consumed by the institutions in the regular course of their business. Items, for the patient use, that are rebilled to the patient by the institution, are also subject to sales tax. This sales tax should be computed on the price billed to patients and/or their insurance provider.
- 102 Any department or division of an exempt entity, whether located on site or off-site, which performs services that are ordinary and necessary to the operation of the exempt entity, including but not limited to home health care, hospice, outpatient cancer, dialysis, cardiology, catheterization lab, diagnostic, lithotripsy, magnetic resonance imaging, rehabilitation, surgery, teleradiology, are exempt from sales tax.

- 103 Any department or division of an exempt entity, whether located on site or off-site, which is not ordinary and necessary to the operation of the exempt entity, is not covered under the exemption granted and is subject to the tax on its purchases. This includes, but is not limited to, wellness centers, physician's offices, and clinics.
- 104 Hospital, under Section 41-9-3, is defined not to include convalescent or boarding homes, children's homes, homes for the aged or other like establishments where room and board only are provided, nor does it include offices or clinics where patients are not regularly kept as bed patients.
- 105 Infirmaries are defined as a facility where overnight care can be provided.
- 106 Meals furnished or sold to employees of an institution are exempt where the eating facility is not open to the public or guest of the institution. Where eating facilities of an institution are open to the public, sales tax is due on the gross income, including sales of meals to employees and meals served to guests in patient's rooms.
- 107 Institutions are consumers of products furnished to patients or used in services rendered. The amount subject to tax shall be the full price paid by the institution on all items, including meals, furnished by all for-profit hospitals, nursing homes, infirmaries or other similar institutions. This amount includes any overhead charge, preparation charge or any other charge paid for the item, even if it is separately stated or separately billed.
- 108 Gross receipts from the sale or rental of tangible personal property, and services rendered to institutions owned and operated by the Federal Government, or the State of Mississippi, its counties, cities and corporations or associations, whose earnings do not inure to the benefit of any individual, group or shareholder, are exempt from sales tax. This exemption as applied to non-profit institutions is limited to purchases for use in the ordinary and necessary operation of the institution. This exemption does not apply to contractors performing services subject to the contractor's tax.
- 109 Sales and rentals to exempt institutions must be substantiated by sales invoices and other records. Sales and rentals to all other institutions are subject to the regular retail sales or use tax. Sales and rentals paid by Medicare or Medicaid are taxable at the regular retail sales or use tax rate through June 30, 1999. From and after July 1, 1999, sales and rentals paid by Medicare and Medicaid are exempt from sales or use tax.
- 110 (Reserved)

Chapter 03 Dental Laboratories and Dental Supply Houses

Dentists

- 100 Dentists. The gross income received by dentists in the performance of their professional services is not subject to the provisions of the Sales Tax Law. Dentists are considered as the users and consumers of all materials, supplies and equipment purchased by them for

use in their dental practice. Therefore, all sales made to dentists are retail transactions taxable at the regular retail rate of sales or use tax.

101 (Reserved)

Dental Laboratories

200 Dental Laboratories. The gross income of dental laboratories derived from repair work performed for dentists or other customers, as well as from the sales of tangible personal property is taxable at the regular retail rate.

201 (Reserved)

Dental Supply Houses

300 Dental Supply Houses. Sales of raw materials to licensed dental laboratories that become an integral part of a manufactured product are exempt. Sales of manufacturing machinery or machine parts to licensed dental laboratories for use exclusively and directly in the manufacturing process are taxed at the 1 ½% special rate of tax. The regular retail rate of sales or use tax applies on equipment, tools or supplies sold to dental laboratories and others for use.

301 Purchases for resale by licensed dental supply houses are exempt from sales or use tax.

302 (Reserved)

Equipment Rentals

400 Equipment Rentals. Rental or lease of tangible personal property is taxed at the same rates as sales of the same property.

401 (Reserved)

Records

500 Records. Adequate records must be maintained to substantiate tax classifications of sales and purchases.

501 (Reserved)

Sub Part 13 General

Chapter 01 Affiliated Corporations

- 100 Each separately organized corporation is a “person” within the meaning of the law, not withstanding its affiliation with or relation to any other corporation through stock ownership by a parent corporation or by the same group of individuals.
- 101 Each corporation shall file a separate return and include therein the tax liability accruing to such corporation. This applies to each corporation in an affiliated group, as the law makes no provision for filing of consolidated returns by affiliated corporations.
- 102 Transactions where title to taxable property is transferred from one corporation to an affiliated corporation, partnership, or stockowner constitute taxable events, and these inter-company transactions may not be eliminated from the measure of tax imposed.
- 103 (Reserved)

Chapter 02 Sales Made By and To Schools and Colleges

- 100 Sales of annuals, awards, articles of clothing or jewelry given in recognition of accomplishments, and rental of caps and gowns when sold to, billed to and paid for directly by the school are exempt.
- 101 (Reserved)
- 200 Colleges, Junior Colleges and Universities
- 201 Facilities, departments or others required to register and file sales tax reports are as follows:
1. Book Stores -- for all sales except textbooks sold to students. Sales of school supplies such as paper, notebooks, ink, pencils, slide rules, drafting instruments, laboratory supplies, special clothing and technical magazines are taxable.
 2. Cafeterias and Dining Halls -- for all sales to students except regular meals, and for all sales including meals to non-students such as faculty members, employees, visitors and the public. Banquets and luncheons for student groups in lieu of individual meals are exempt; for non-student groups are taxable. All cash sales are considered taxable meals. The school is considered the taxpayer in instances where a contract between the school and a concessionaire creates an agency relationship.
 3. School Laundries and Dry Cleaners -- for all sales of laundry or dry cleaning services for students or non-students. Laundry or dry cleaning services by private firms for students and non-students are taxable.
 4. Canteens, Soda Fountains, Dairy Bars, Sundry Stores and Similar Places of Business -- for all sales to students and non-students, including meals.
 5. Vending Machines -- for all sales of merchandise or services through vending machines except "full service sales". Vendors are liable for tax when "full service sales" are made (See Title 35, Mississippi Administrative Code, Part IV, Subpart 4, Chapter 3).
 6. Bowling Alleys, Billiard or Pool Rooms -- on gross income received from students and non-students.

7. Concession Stands -- for all sales made at athletic events or entertainment where operated by the school.
8. Florist Shops and Greenhouses -- for all sales.
9. Alumni and/or Visitor Houses -- for income from room rentals and property sales.
10. Department Producing and/or Selling Property or Services -for sales of milk, meat, ice cream, vegetables, fruit and other farm produce; property made by vocational workshops, services such as automobile or furniture repair and custom meat processing.
11. Income from admission to athletic contests and motion picture shows. (Exceptions Mississippi Veterans Memorial Stadium events which are subject to 7% tax and the provisions of Sections 55-23-3 through 55-23-11).
12. Income from telephone or cablevision service for the private use of students, faculty members or any other persons which has NOT previously borne the sales tax. Income includes any charge billed by the institution, in any manner, to and paid by students, faculty members or any other persons resulting from private use of such services.

201.01 Students are defined as persons receiving a course of instruction at the school involved and will include those taking short specialized courses.

201.02 Interdepartmental sales by public and nonprofit private schools are exempt. Consolidated returns may be filed reporting sales by two or more departments or activities.

203 Sales made to or through Colleges, Junior Colleges and Universities for which vendor is liable for retail tax are:

1. Sales of property or services for use by fraternities, sororities, classes, clubs, student organizations, faculty members or individual students. (Exception - Electricity, gas or water used for residential purposes.)
2. Sales to student groups of merchandise for resale through concession stands, peddling or by other means when such groups are not on the sales tax roll.
3. "Full service sales" through vending machines (See Title 35, Mississippi Administrative Code, Part IV, Subpart 4, Chapter 3.)
4. Concessionaire sales including those in which the school receives a portion of the gross or net profit.
5. Sales of invitations, class rings, pins, etc. regardless of how paid. Sales of annuals, awards, articles of clothing or jewelry given in recognition of accomplishments and rental of caps and gowns are taxable when the vendor sells to and receives payment from the individual student or faculty member. Sales to public and nonprofit private schools for resale, rather than use by the institution, unless the department or facility reselling the property is registered for sales tax purposes. Sales made directly to public and nonprofit private schools for use in the ordinary and necessary operation of the school are exempt.
6. Sales of cablevision or telephone services for the private use of students, faculty members or any other persons when the provider has the ability to identify the use of such service.

204 (Reserved)

300 Elementary and High Schools

1. Sales to public and nonprofit private elementary and secondary grade schools for use in the ordinary and necessary operation of the school are exempt.
2. Elementary or high schools operating campus stores, canteens or other places of business making sales of property or services to students and/or the public are required to register the facilities and pay sales tax on the gross proceeds of such sales.
3. Sales to public or nonprofit private schools for resale in any manner are taxable at the retail rate except food to be resold as student meals. Sales of invitations, class rings, pins, etc. are taxable regardless of the source of payment. Sales of annuals, awards, articles of clothing or jewelry given in recognition of accomplishments, and rental of caps and gowns are taxable when the vendor sells to and receives payment from the individual student or faculty member. Sales of pictures, drinks, fund raising materials, etc., for the benefit of individual students or student organizations are taxable at the retail rate even if billed to an exempt school.
4. The vendor (operator) is liable for tax on "full service sales" through vending machines (See Title 35, Mississippi Administrative Code, Part IV, Subpart 4, Chapter 3.).

301 (Reserved)

400 Kindergartens and Preschool Facilities

All sales to private kindergartens and other preschool facilities are taxable at the retail rate, unless publicly owned and operated or operated in conjunction with a nonprofit private elementary and secondary grade school.

401 (Reserved)

Chapter 03 Burial of Human Bodies

- 100 Sales of coffins, caskets and other materials used in the preparation of human bodies for burial are exempt from sales tax.
- 101 Material as used in this rule means any tangible personal property consumed directly in the preparation of a human body for burial and property buried with the body; however, material does NOT include any property which may be reused.
- 102 Coffins, caskets, vaults, urns, clothing, embalming aids and appliances, burial pouches and similar property buried with the human body are exempt from tax. Cemetery equipment and supplies including but not limited to grave markers and nameplates are taxable at the regular retail rate of tax.
- 103 Embalming Chemicals, cosmetics, wound filler, restorative wax, ligating and suturing threads and other materials remaining in or on the body are exempt from tax.

- 104 Chemicals or materials used to clean the body are exempt from tax, however, chemicals or materials used in the cleaning of equipment, tools and the embalming area are taxable at the regular retail rate of tax.
- 105 Disposable items such as gloves, gowns, aprons, needles, scalpels and other property used directly in the preparation of the body for burial are exempt from tax. All property which may be reused is taxable at the regular retail rate of tax.
- 106 Books and other property given to the family of the deceased are taxable at the regular retail rate of tax.
- 107 (Reserved)

Chapter 04 Disposal of Waste Tires

- 100 Levy
- 101 A one dollar (\$1.00) waste tire fee is imposed on each new motor vehicle tire sold with a rim diameter of less than twenty-four (24) inches and two dollars (\$2.00) for each new tire sold with a rim diameter of twenty-four (24) inches or greater. The fee shall be charged by the tire wholesaler to a tire retailer who purchases a motor vehicle tire for resale. Such fee shall be indicated on the sales invoice to the tire retailer. Tire wholesalers making retail sales of new tires should accrue the one dollar (\$1.00) or two dollars (\$2.00) on new tire sold at retail for the customer's use. Tire retailers should accrue the one dollar (\$1.00) or two dollar (\$2.00) waste tire fee on purchases of new motor vehicle tires when an out of state wholesaler does not charge the waste tire fee. The tax is to be charged on the last wholesale sale of the tire.
- 102 Tire wholesalers will be provided a special permit to allow the wholesaler to purchase tires for resale exempt from the waste tire fee.
- 103 The waste tire fee shall not be charged on the retail sale to the end customer; however, the seller may recoup the waste tire fee by including the cost of the fee in the selling price of the tires or listing the cost of the fee as a, "Reimbursement of waste tire fee" on the sales invoice. The amount recouped by the seller is subject to sales tax as part of the gross proceeds of the sale of new tires.
- 104 (Reserved)
- 200 Definitions
- 201 "Motor vehicle" means an automobile, motorcycle, motor home, truck, trailer, semi-trailer, truck tractor and semi-trailer combination, farm equipment, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road

rollers, earth movers, graders, loading and other similar construction equipment requiring oversized tires, any vehicles which run only upon a track, bicycles, or mopeds. Motor vehicle does not include equipment such as bulldozers, motor graders, backhoes, front end loaders or any other equipment not used to transport persons or property upon the roads of this state.

202 "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle whether mounted on or carried in the motor vehicle.

203 "Retailer" shall apply to a person making retail sales of new motor vehicle tires by maintaining a store, or operating as a transient vendor.

204 "Retail sales" shall mean and include all sales of new motor vehicle tires to a consumer of the tires.

205 "Retail sales" shall include the value of any tangible personal property manufactured or purchased at wholesale which is withdrawn from the business or stock in trade and is used or consumed within this state in the business or by the owner or by any other person, whether or not in the regular course of business or trade.

206 "Retail sale" shall also include a sale invoiced to a retailer but delivered to another person who pays for the merchandise upon taking possession.

207 For purposes of this rule, "motor vehicle leasing dealers" are considered consumers of tires purchased for use on rental or lease motor vehicles.

208 "Wholesaler" shall apply to a person making wholesale sales of new motor vehicle tires to tire retailers for resale.

209 "Wholesale sale" shall mean sales of new motor vehicle tires to a tire retailer or a tire wholesaler for resale.

210 (Reserved)

300 Filing Requirements

301 The fee imposed, less five percent (5%) of fees collected or accrued, which shall be retained by the tire wholesaler as collection costs, shall be reported and paid to the State Tax Commission on the return provided by the Commission. The return with remittance is due and payable on or before the twentieth day of the month next succeeding the close of the period in which the fee accrues. This fee is NOT to be reported on the sales tax return.

302 The fee is to be reported on the Mississippi Tire Disposal Fee Return (Form 72-220).

303 (Reserved)

400 Exemptions

401 No fee is due on new tires already mounted on new or used motor vehicles held by motor vehicle dealers for sale at retail.

402 No fee is due on the sale of recaps, retreads or any other used motor vehicle tire.

403 The exemptions or exceptions contained in the Sales Tax Law do NOT apply to the waste tire fee.

404 (Reserved)

Chapter 05 Auctions, Flea Markets, Antique Malls and Other Similar Establishments

100 Auctions

101 Auctioneer – A person who owns tangible personal property or to whom tangible personal property has been consigned and who offers tangible personal property for sale at auction.

102 For the purpose of an auction, gross proceeds of sales are the total amount received without any deductions for commissions.

103 Auctioneers either operating from an established place of business or regularly engaged in auctions or licensed as an auctioneer with the State of Mississippi or any other state are considered to be in the business of selling tangible personal property. Sales taxes are due on the gross receipts from such sales regardless of how such tangible personal property may have been acquired, or by whom it may be owned.

104 In cases where inventory items held for sale are auctioned at the closure of a business, sales taxes due from the sales of such items are reported through the sales tax account of the business and not by the auctioneer.

105 An auctioneer, unless meeting the requirements for a dealer and Designated Agent, will not be responsible for collecting sales tax on motor vehicles sold through the auction. Under Section 27-65-201 Mississippi Code of 1972, motor vehicles sold between non-dealers are subject to a 3% casual sales tax. The county tax collector for the county, in which the motor vehicle will be registered, is responsible for collecting this tax.

106 (Reserved)

200 Flea Markets, Antiques Malls and Promoted Events

201 Flea Markets and Antiques Malls are businesses where nonpermanent spaces are provided to participants for the sale or exchange of secondhand articles, antiques and

crafts, for a fee. The participants may rent these nonpermanent spaces on a daily, weekly or monthly basis. A fee may or may not be charged to prospective buyers for admission to the area where such property is offered or displayed for sale or exchange.

- 202 Promoted Events include, but are not limited to, community festivals, craft shows, seasonal shows, music festivals, and other similar events. These events may include multiple vendors selling tangible personal property, including food or drink.
- 203 The owner/promoter/operator of a flea market, antique mall or promoted event is the seller and is responsible for collecting and remitting the sales tax collected by dealers, salespersons or individuals selling at such events. Any vendor who holds a retail sales tax permit should not report tax from an event under his/her number. All taxes collected from these establishments or events must be reported by the owner/promoter/operator.
- 204 (Reserved)
- 300 Consignment Sales
- 301 The consignee (licensed retailer or wholesaler) is liable for the sales tax on sales of tangible personal property that was consigned, delivered or entrusted to him regardless if the consignor retains title or not.
- 302 (Reserved)